

SUBSTITUTE FOR
HOUSE BILL NO. 4257

A bill to amend 1991 PA 179, entitled
"Michigan telecommunications act,"
by amending section 310 (MCL 484.2310), as amended by 2005 PA 235.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 310. (1) Except as provided by this section, the
2 commission shall not review or set the rates for toll access
3 services.

4 (2) A provider of toll access services shall set the rates for
5 **INTRASTATE SWITCHED** toll access services ~~. Access service AT~~ rates
6 ~~and charges set by a provider~~ that do not exceed the rates allowed
7 for the same interstate services by the federal government ~~are just~~
8 ~~and reasonable~~ **AND SHALL USE THE ACCESS RATE ELEMENTS FOR**
9 **INTRASTATE SWITCHED TOLL ACCESS SERVICES THAT ARE IN EFFECT FOR**
10 **THAT PROVIDER AND ARE ALLOWED FOR THE SAME INTERSTATE SERVICES BY**

1 THE FEDERAL GOVERNMENT. ELIGIBLE PROVIDERS SHALL COMPLY WITH THIS
2 SUBSECTION AS OF THE DATE ESTABLISHED FOR THE COMMENCEMENT OF THE
3 OPERATION OF THE RESTRUCTURING MECHANISM UNDER SUBSECTION (9).
4 PROVIDERS OTHER THAN ELIGIBLE PROVIDERS SHALL NOT CHARGE INTRASTATE
5 TOLL ACCESS SERVICE RATES IN EXCESS OF THOSE RATES IN EFFECT AS OF
6 JULY 1, 2009 AND SHALL REDUCE THE DIFFERENTIAL, IF ANY, BETWEEN
7 INTRASTATE AND INTERSTATE SWITCHED TOLL ACCESS SERVICE RATES IN
8 EFFECT AS OF JULY 1, 2009 IN NO MORE THAN 5 STEPS OF AT LEAST 20%
9 EACH OF THE DIFFERENTIAL ON THE FOLLOWING DATES: JANUARY 1, 2011;
10 JANUARY 1, 2012; JANUARY 1, 2013; JANUARY 1, 2014; AND JANUARY 1,
11 2015. Providers may agree to a rate that is less than the rate
12 allowed by the federal government.

13 (3) Two or more providers that each have less than 250,000
14 access lines may agree to joint toll access service rates and
15 pooling of intrastate toll access service revenues.

16 (4) A provider of toll access services shall make available
17 for intrastate access services any technical interconnection
18 arrangements, including colocation required by the federal
19 government for the identical interstate access services.

20 (5) A provider of toll access service, whether under tariff or
21 contract, shall offer the services under the same rates, terms, and
22 conditions, without unreasonable discrimination, to all providers.
23 All pricing of special toll access services and switched access
24 services, including volume discounts, shall be offered to all
25 providers under the same rates, terms, and conditions.

26 (6) If a toll access service rate is reduced, then the
27 provider receiving the reduced rate shall reduce its rate to its

1 customers by an equal amount. The commission shall ~~shall~~ **MAY** investigate
2 and ensure that the provider has complied with this subsection.

3 ~~—— (7) This section shall not apply to basic local exchange~~
4 ~~providers that have 250,000 or fewer customers in this state.~~

5 (7) IN ORDER TO RESTRUCTURE INTRASTATE SWITCHED TOLL ACCESS
6 SERVICE RATES, THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT OF
7 ENERGY, LABOR, AND ECONOMIC GROWTH AN INTRASTATE SWITCHED TOLL
8 ACCESS RATE RESTRUCTURING MECHANISM AS A SEPARATE INTEREST-BEARING
9 FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE
10 RESTRUCTURING MECHANISM. MONEY IN THE RESTRUCTURING MECHANISM SHALL
11 REMAIN IN THE RESTRUCTURING MECHANISM AT THE CLOSE OF THE FISCAL
12 YEAR AND SHALL NOT REVERT TO THE GENERAL FUND.

13 (8) AN ELIGIBLE PROVIDER IS ENTITLED TO RECEIVE MONTHLY
14 DISBURSEMENTS FROM THE RESTRUCTURING MECHANISM AS PROVIDED IN
15 SUBSECTION (11) IN ORDER TO RECOVER THE LOST INTRASTATE SWITCHED
16 TOLL ACCESS SERVICE REVENUES RESULTING FROM RATE REDUCTIONS UNDER
17 SUBSECTION (2).

18 (9) THE RESTRUCTURING MECHANISM SHALL BE ADMINISTERED BY THE
19 COMMISSION. THE RESTRUCTURING MECHANISM SHALL BE ESTABLISHED AND
20 SHALL BEGIN OPERATION WITHIN 270 DAYS AFTER THE EFFECTIVE DATE OF
21 THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. SUBJECT TO THE
22 PRECEDING SENTENCE, THE COMMISSION SHALL ESTABLISH THE DATE FOR
23 COMMENCING THE OPERATION OF THE RESTRUCTURING MECHANISM AND SHALL
24 NOTIFY THE PARTICIPANTS IN THE RESTRUCTURING MECHANISM AT LEAST 30
25 DAYS IN ADVANCE OF THAT DATE. THE COMMISSION SHALL RECOVER ITS
26 ACTUAL COSTS OF ADMINISTERING THE RESTRUCTURING MECHANISM FROM
27 ASSESSMENTS COLLECTED FOR THE OPERATION OF THE RESTRUCTURING

1 MECHANISM.

2 (10) THE COMMISSION SHALL ESTABLISH THE PROCEDURES AND
3 TIMELINES FOR ORGANIZING, FUNDING, AND ADMINISTERING THE
4 RESTRUCTURING MECHANISM. THE COMMISSION SHALL REPORT TO THE
5 LEGISLATURE AND THE GOVERNOR ANNUALLY REGARDING THE ADMINISTRATION
6 OF THE RESTRUCTURING MECHANISM. THE REPORT SHALL INCLUDE THE TOTAL
7 AMOUNT OF MONEY COLLECTED FROM CONTRIBUTING PROVIDERS, THE TOTAL
8 AMOUNT OF MONEY DISBURSED FROM THE RESTRUCTURING MECHANISM ANNUALLY
9 TO EACH ELIGIBLE PROVIDER, THE COSTS OF ADMINISTRATION, AND ANY
10 OTHER INFORMATION CONSIDERED RELEVANT BY THE COMMISSION. ANY
11 COMPANY-SPECIFIC INFORMATION PERTAINING TO ACCESS LINES, SWITCHED
12 TOLL ACCESS SERVICES MINUTES OF USE, SWITCHED TOLL ACCESS DEMAND
13 QUANTITIES, CONTRIBUTIONS, AND INTRASTATE TELECOMMUNICATIONS
14 SERVICES REVENUES SUBMITTED TO THE COMMISSION UNDER THIS SUBSECTION
15 ARE CONFIDENTIAL COMMERCIAL OR FINANCIAL INFORMATION AND EXEMPT
16 FROM PUBLIC DISCLOSURE PURSUANT TO SECTION 210.

17 (11) THE INITIAL SIZE OF THE RESTRUCTURING MECHANISM SHALL BE
18 CALCULATED AS FOLLOWS:

19 (A) WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT
20 THAT ADDED THIS SUBSECTION EACH ELIGIBLE PROVIDER SHALL SUBMIT TO
21 THE COMMISSION INFORMATION AND ALL THE SUPPORTING DOCUMENTATION
22 THAT ESTABLISHES THE AMOUNT OF THE REDUCTION IN ANNUAL INTRASTATE
23 SWITCHED TOLL ACCESS REVENUES WHICH WILL RESULT FROM THE REDUCTION
24 IN RATES REQUIRED IN SUBSECTION (2). THE REDUCTION SHALL BE
25 CALCULATED FOR EACH ELIGIBLE PROVIDER AS THE DIFFERENCE BETWEEN
26 INTRASTATE AND INTERSTATE SWITCHED TOLL ACCESS SERVICE RATES IN
27 EFFECT AS OF JULY 1, 2009, MULTIPLIED BY THE INTRASTATE SWITCHED

House Bill No. 4257 (H-6) as amended December 3, 2009

1 ACCESS MINUTES OF USE AND OTHER SWITCHED ACCESS DEMAND QUANTITIES
2 FOR THE CALENDAR YEAR 2008.

3 (B) THE COMMISSION SHALL COMPUTE THE SIZE OF THE INITIAL
4 RESTRUCTURING MECHANISM DISBURSEMENTS FOR EACH ELIGIBLE PROVIDER
5 AND SHALL INFORM EACH ELIGIBLE PROVIDER OF THAT COMPUTATION WITHIN
6 60 DAYS AFTER RECEIVING THE INFORMATION AND SUPPORTING
7 DOCUMENTATION FROM THE ELIGIBLE PROVIDERS UNDER SUBDIVISION (A).

8 (12) THE RESTRUCTURING MECHANISM SHALL BE CREATED AND
9 SUPPORTED BY A MANDATORY MONTHLY CONTRIBUTION BY ALL PROVIDERS OF
10 RETAIL INTRASTATE TELECOMMUNICATIONS SERVICES AND ALL PROVIDERS OF
11 COMMERCIAL MOBILE SERVICE. INTERCONNECTED VOICE OVER INTERNET
12 PROTOCOL SERVICES SHALL NOT BE CONSIDERED AN INTRASTATE
13 TELECOMMUNICATIONS SERVICE FOR THE PURPOSES OF THIS SECTION AND
14 INTERCONNECTED VOICE OVER INTERNET PROTOCOL SERVICE PROVIDERS SHALL
15 NOT BE REQUIRED TO PAY, DIRECTLY OR INDIRECTLY, THE MANDATORY
16 MONTHLY CONTRIBUTIONS ESTABLISHED IN THIS SUBSECTION. A PROVIDER OF
17 TELECOMMUNICATIONS SERVICES [TO A PROVIDER OF INTERCONNECTED VOICE OVER
INTERNET PROTOCOL SERVICES SHALL NOT PAY A MANDATORY MONTHLY
CONTRIBUTION RELATED TO THOSE INTERCONNECTED VOICE OVER INTERNET PROTOCOL
SERVICES] OR ATTEMPT TO PASS
18 THROUGH ANY MANDATORY MONTHLY CONTRIBUTIONS, DIRECTLY OR
19 INDIRECTLY, TO A PROVIDER OF INTERCONNECTED VOICE OVER INTERNET
20 PROTOCOL SERVICES. NOTHING IN THIS ACT GRANTS THE COMMISSION
21 AUTHORITY OVER COMMERCIAL MOBILE SERVICE PROVIDERS OR VOICE OVER
22 INTERNET PROTOCOL SERVICE PROVIDERS EXCEPT AS IS STRICTLY NECESSARY
23 FOR ADMINISTRATION OF THE RESTRUCTURING MECHANISM.

24 (13) WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY
25 ACT THAT ADDED THIS SUBSECTION, EACH CONTRIBUTING PROVIDER SHALL
26 REPORT ITS 2008 INTRASTATE RETAIL TELECOMMUNICATIONS SERVICES
27 REVENUES TO THE COMMISSION. [NOTWITHSTANDING ANYTHING IN SUBSECTION (12),

House Bill No. 4257 (H-6) as amended December 3, 2009

1 IF THE FEDERAL COMMUNICATIONS COMMISSION DETERMINES THAT INTERCONNECTED
2 VOICE OVER INTERNET PROTOCOL SERVICES MAY BE SUBJECT TO STATE REGULATION
3 FOR UNIVERSAL SERVICES PURPOSES, THE COMMISSION MAY OPEN A PROCEEDING TO
4 DETERMINE WHO IS REQUIRED TO PARTICIPATE IN A UNIVERSAL SERVICE FUND.
5
6
7
8
9
10

11]

12 (14) THE INITIAL CONTRIBUTION ASSESSMENT PERCENTAGE SHALL BE A
13 UNIFORM PERCENTAGE OF RETAIL INTRASTATE TELECOMMUNICATIONS SERVICES
14 REVENUES DETERMINED BY PROJECTING THE TOTAL AMOUNT NECESSARY TO
15 COVER THE INITIAL INTRASTATE SWITCHED TOLL ACCESS RATE
16 RESTRUCTURING MECHANISM DISBURSEMENT LEVELS FOR 12 MONTHS,
17 INCLUDING PROJECTED CASH RESERVE REQUIREMENTS, ACTUAL AND PROJECTED
18 ADMINISTRATIVE COSTS, AND PROJECTED UNCOLLECTIBLE CONTRIBUTION
19 ASSESSMENTS, DIVIDED BY THE 2008 CALENDAR YEAR TOTAL RETAIL
20 INTRASTATE TELECOMMUNICATIONS SERVICES REVENUES IN THIS STATE, LESS
21 PROJECTED UNCOLLECTIBLE REVENUES, REPORTED TO THE COMMISSION. THE
22 COMMISSION SHALL ISSUE AN ORDER ESTABLISHING THE INITIAL
23 CALCULATION OF THE CONTRIBUTION ASSESSMENT PERCENTAGE WITHIN 150
24 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
25 SUBSECTION. THE COMMISSION MAY INCREASE OR DECREASE THE
26 CONTRIBUTION ASSESSMENT ON A QUARTERLY OR OTHER BASIS AS NECESSARY
27 TO MAINTAIN SUFFICIENT FUNDS FOR DISBURSEMENTS.

1 (15) EACH CONTRIBUTING PROVIDER SHALL REMIT TO THE COMMISSION
2 ON A MONTHLY BASIS AN AMOUNT EQUAL TO ITS INTRASTATE RETAIL
3 TELECOMMUNICATIONS SERVICES REVENUES, LESS UNCOLLECTIBLE REVENUES,
4 MULTIPLIED BY THE CONTRIBUTION ASSESSMENT PERCENTAGE DETERMINED
5 UNDER SUBSECTION (14), ACCORDING TO A TIME FRAME ESTABLISHED BY THE
6 COMMISSION. THESE CONTRIBUTIONS SHALL CONTINUE UNTIL THE END OF THE
7 PERIOD FOR WHICH ELIGIBLE PROVIDERS ARE ENTITLED TO RECEIVE MONTHLY
8 DISBURSEMENTS FROM THE RESTRUCTURING MECHANISM UNDER SUBSECTIONS
9 (11) AND (16).

10 (16) THE COMMISSION SHALL RECALCULATE THE SIZE OF THE
11 RESTRUCTURING MECHANISM FOR EACH ELIGIBLE PROVIDER 4 YEARS FROM THE
12 DATE THE INITIAL RESTRUCTURING MECHANISM BECOMES OPERATIONAL
13 PURSUANT TO SUBSECTION (9) AND AGAIN 4 YEARS THEREAFTER. THE
14 RECALCULATION PROCESS SHALL BE AS FOLLOWS:

15 (A) THE RESTRUCTURING MECHANISM SHALL BE RECALCULATED EACH
16 TIME AS THE DIFFERENCE BETWEEN THE INTRASTATE SWITCHED TOLL ACCESS
17 RATES IN EFFECT AS OF JULY 1, 2009 AND THE INTERSTATE SWITCHED TOLL
18 ACCESS RATES IN EFFECT AT THE TIME OF THE RECALCULATION, MULTIPLIED
19 BY THE INTRASTATE SWITCHED TOLL ACCESS MINUTES OF USE AND OTHER
20 SWITCHED ACCESS DEMAND QUANTITIES FOR THE CALENDAR YEAR 2008.

21 (B) THE RECALCULATED RESTRUCTURING MECHANISM SHALL BE FURTHER
22 ADJUSTED DURING THE FIRST RECALCULATION BY THE PERCENTAGE CHANGE,
23 IF ANY, IN THE NUMBER OF ACCESS LINES IN SERVICE FOR EACH ELIGIBLE
24 PROVIDER FROM DECEMBER 31, 2008 TO DECEMBER 31 OF THE YEAR
25 IMMEDIATELY PRECEDING THE YEAR IN WHICH THE ADJUSTMENT IS MADE.

26 (C) THE RECALCULATED RESTRUCTURING MECHANISM SHALL BE ADJUSTED
27 DURING THE SECOND RECALCULATION BY THE PERCENTAGE CHANGE, IF ANY,

1 IN THE NUMBER OF ACCESS LINES IN SERVICE FOR EACH ELIGIBLE PROVIDER
2 FROM DECEMBER 31 OF THE YEAR OF THE FIRST RECALCULATION TO DECEMBER
3 31 OF THE YEAR IMMEDIATELY PRECEDING THE SECOND RECALCULATION.

4 (D) EACH ELIGIBLE PROVIDER IS ENTITLED TO RECEIVE MONTHLY
5 DISBURSEMENTS FROM THE RESTRUCTURING MECHANISM FOR A PERIOD OF NO
6 MORE THAN 12 YEARS FROM THE DATE THE RESTRUCTURING MECHANISM IS
7 ESTABLISHED UNDER SUBSECTION (9), AT WHICH TIME THE RESTRUCTURING
8 MECHANISM SHALL CEASE TO EXIST.

9 (17) THE MONEY RECEIVED AND ADMINISTERED BY THE COMMISSION FOR
10 THE SUPPORT AND OPERATION OF THE RESTRUCTURING MECHANISM CREATED BY
11 THE AMENDATORY ACT THAT CREATED THIS SUBSECTION SHALL NOT BE USED
12 BY THE COMMISSION OR ANY DEPARTMENT, AGENCY, OR BRANCH OF THE
13 GOVERNMENT OF THIS STATE FOR ANY OTHER PURPOSE, AND THAT MONEY IS
14 NOT SUBJECT TO APPROPRIATION, ALLOCATION, ASSIGNMENT, EXPENDITURE,
15 OR OTHER USE BY ANY DEPARTMENT, AGENCY, OR BRANCH OF THE GOVERNMENT
16 OF THIS STATE.

17 (18) IF THE FEDERAL GOVERNMENT ADOPTS INTERCARRIER
18 COMPENSATION REFORMS OR TAKES ANY ACTION THAT CAUSES OR REQUIRES A
19 SIGNIFICANT CHANGE IN INTERSTATE SWITCHED TOLL ACCESS SERVICE
20 RATES, THE COMMISSION MAY INITIATE, OR ANY INTERESTED PARTY MAY
21 FILE AN APPLICATION FOR, A PROCEEDING PURSUANT TO SECTION 203
22 WITHIN 60 DAYS OF THAT ACTION TO DETERMINE WHETHER ANY
23 MODIFICATIONS TO THE SIZE, OPERATION, OR COMPOSITION OF THE
24 RESTRUCTURING MECHANISM ARE WARRANTED. DURING THE PENDENCY OF THAT
25 PROCEEDING, THE REQUIREMENT IN SUBSECTION (2) FOR ELIGIBLE
26 PROVIDERS TO SET INTRASTATE SWITCHED TOLL ACCESS SERVICE RATES
27 EQUAL TO INTERSTATE SWITCHED TOLL ACCESS SERVICE SHALL BE

1 TEMPORARILY SUSPENDED BY THOSE PROVIDERS. INTRASTATE ACCESS RATES
2 MAY NOT BE INCREASED ABOVE THE LEVELS THAT EXIST AT THE TIME OF THE
3 SUSPENSION. FOLLOWING NOTICE AND HEARING, UPON A SHOWING OF GOOD
4 CAUSE, THE COMMISSION MAY STOP OR PLACE CERTAIN CONDITIONS ON THE
5 TEMPORARY SUSPENSION.

6 (19) IF THE FEDERAL GOVERNMENT CHANGES THE FEDERAL UNIVERSAL
7 SERVICE CONTRIBUTION METHODOLOGY SO THAT IT IS NOT BASED ON A
8 PERCENTAGE OF TOTAL INTERSTATE TELECOMMUNICATIONS SERVICES
9 REVENUES, THE COMMISSION SHALL MODIFY THE CONTRIBUTION METHODOLOGY
10 FOR THE RESTRUCTURING MECHANISM TO BE CONSISTENT WITH THE FEDERAL
11 METHODOLOGY. THE COMMISSION SHALL INITIATE A PROCEEDING TO MODIFY
12 THE CONTRIBUTION METHODOLOGY FOR THE RESTRUCTURING MECHANISM AND TO
13 ESTABLISH A REASONABLE TIME PERIOD FOR TRANSITION TO THE NEW
14 CONTRIBUTION METHODOLOGY.

15 (20) DISPUTES ARISING UNDER THIS SECTION MAY BE SUBMITTED TO
16 THE COMMISSION FOR RESOLUTION PURSUANT TO SECTIONS 203 AND 204.

17 (21) IF ANY CONTRIBUTING PROVIDER SUBJECT TO THIS SECTION
18 FAILS TO MAKE THE REQUIRED CONTRIBUTIONS OR FAILS TO PROVIDE
19 REQUIRED INFORMATION TO THE COMMISSION, THE COMMISSION SHALL
20 INITIATE AN ENFORCEMENT PROCEEDING UNDER SECTION 203. IF THE
21 COMMISSION FINDS THAT A CONTRIBUTING PROVIDER HAS FAILED TO MAKE
22 CONTRIBUTIONS OR TO PERFORM ANY ACT REQUIRED UNDER THIS SECTION, A
23 CONTRIBUTING PROVIDER SHALL BE SUBJECT TO THE REMEDIES AND
24 PENALTIES UNDER SECTION 601.

25 (22) ELIGIBLE PROVIDERS AND CONTRIBUTING PROVIDERS SHALL
26 PROVIDE INFORMATION TO THE COMMISSION THAT IS REQUIRED FOR THE
27 ADMINISTRATION OF THE RESTRUCTURING MECHANISM. COMPANY-SPECIFIC

1 INFORMATION PERTAINING TO ACCESS LINES, SWITCHED TOLL ACCESS
2 SERVICES MINUTES OF USE, SWITCHED TOLL ACCESS DEMAND QUANTITIES,
3 CONTRIBUTIONS, AND INTRASTATE TELECOMMUNICATIONS SERVICES REVENUES
4 SUBMITTED TO THE COMMISSION UNDER THIS SUBSECTION IS CONFIDENTIAL
5 COMMERCIAL OR FINANCIAL INFORMATION AND EXEMPT FROM PUBLIC
6 DISCLOSURE PURSUANT TO SECTION 210.

7 (23) AS USED IN THIS SECTION:

8 (A) "COMMERCIAL MOBILE SERVICE" MEANS THAT TERM AS DEFINED IN
9 SECTION 332(D) (1) OF THE TELECOMMUNICATIONS ACT OF 1996, 47 USC
10 332.

11 (B) "CONTRIBUTING PROVIDER" MEANS AN ENTITY REQUIRED TO PAY
12 INTO THE RESTRUCTURING MECHANISM.

13 (C) "ELIGIBLE PROVIDER" MEANS AN INCUMBENT LOCAL EXCHANGE
14 CARRIER AS DEFINED IN SECTION 251 OF THE TELECOMMUNICATIONS ACT OF
15 1996, 47 USC 251, THAT AS OF JANUARY 1, 2009 HAD RATES FOR
16 INTRASTATE SWITCHED TOLL ACCESS SERVICES HIGHER THAN ITS RATES FOR
17 THE SAME INTERSTATE SWITCHED TOLL ACCESS SERVICES, AND THAT
18 PROVIDES THE SERVICES AND FUNCTIONALITIES IDENTIFIED BY RULES OF
19 THE FEDERAL COMMUNICATIONS COMMISSION DESCRIBED AT 47 CFR
20 54.101(A).

21 (D) "INTERCONNECTED VOICE OVER INTERNET PROTOCOL SERVICE"
22 MEANS THAT TERM AS DEFINED IN 47 CFR 9.3.

23 (E) "RESTRUCTURING MECHANISM" MEANS THE INTRASTATE SWITCHED
24 TOLL ACCESS RATE RESTRUCTURING MECHANISM ESTABLISHED IN THIS
25 SECTION.