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TELECOMMUNICATIONS AMENDMENTS

Senate Bill 788 as passed by the House First Analysis (12-10-97)

Sponsor: Sen. Mat Dunaskiss
House Committee: Public Utilities
Senate Committee: Technology and Energy
(discharged)

THE APPARENT PROBLEM:

Beginning January 1, 1998, the Federal Communications Commission (FCC) will increase their contribution to states whose "lifeline" programs are in compliance with new federal guidelines. Lifeline programs reduce low income customers' telephone bills each month. The majority of the monthly reduction is reimbursed to carriers with federal tax dollars, and a portion is reimbursed with state tax dollars. Michigan's current law caps the low income lifeline reduction at \$4.00 per eligible person per month (\$2.00 contributed by the federal government, and \$2.00 by the state). The \$4.00 cap in the current law renders Michigan ineligible for the new lifeline program, since the state's low income assistance for telephone bills is too modest to comply with federal guidelines.

In order for the State of Michigan to comply with the new FCC guidelines, its lifeline program must offer low income telephone users a larger reduction in their monthly bill. According to the Communications Section of the Michigan Public Service Commission, under the new federal rules, the federal government would contribute \$5.25, with no state match required. However, for every additional \$1.00 dedicated by the state, the federal government matches \$0.50. (The federal government would match such state contributions to just over \$10.00.)

Certification that Michigan's lifeline program is in compliance with new federal requirements entitles other telephone users in the state to yet additional services, available under the national Universal Service Fund. The lifeline program is but one of four services constituting the national Universal Service Fund. That fund also would make available financial assistance to schools and libraries; to telephone providers in rural areas; and, to hospitals and health care institutions.

Some have argued that Michigan, too, should establish a state-level universal service fund, although the manner in

which such a fund would be financed is subject to considerable dispute. However, the argument for a state-level fund is usually advanced by mid-size and small telephone carriers that serve out-state, rural, or remote areas. The argument is most often resisted by the largest telephone companies, who believe their customers should not share in the cost of providing service in difficult-to-serve areas.

In addition to compliance with the new federal lifeline guidelines, those familiar with the Michigan Telecommunications Act also cite problems that have emerged (or re-emerged) since the last re-writing of the law which was undertaken during 1995 (the law taking effect in 1996).

For example, the entire Michigan Telecommunications Act will be repealed (commonly called a "sunset") effective January 1, 2000. Some have argued that portions of the act should be repealed earlier, in order to update or eliminate provisions of the act, so as to encourage greater competition and more de-regulation. Those who make this argument cite among other things the need for more cost-effective ways to serve remote and rural telephone customers, and specifically the need for a state-level universal service fund.

Another problem concerns school-based telecommunications systems. The Michigan Telecommunications Act allows educational institutions, other than a state institution of higher education, to sell certain telecommunication services, and it allows telecommunications providers, at the request of an educational institution, to provide service across local access and transport areas. However, at least one service provider has refused to allow schools to attach fiber optic cable to their utility poles, in effect thwarting the legislative intent of the act which envisioned linked fiber optic networks (a phone system) for school districts' inter- and intra-net access programs.

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THE CONTENT OF THE BILL:

Senate Bill 788 (H-1) would amend two sections of the Michigan Telecommunications Act to require each provider of residential basic local exchange to offer low income customers reduced-rate basic local exchange and access service. The bill would require that the rate would be, at a minimum, 20 percent of the basic local exchange rate or \$8.25, inclusive of any federal contribution, whichever is greater. Currently the rate is 20 percent or \$4.00, also inclusive of any federal contribution, whichever is greater.

In addition, Senate Bill 788 would require that if the low income customer is 65 years of age or more, the rate reduction would be, at a minimum, 25 percent of the basic local exchange rate or \$8.25, inclusive of any federal contribution, whichever is greater. Currently it is 25 percent or \$4.00.

The bill also specifies that the total reduction under these two low income provisions "shall not exceed 100 percent of all end-user common line charges and the basic local exchange rate." (This provision means that no reimbursement would accrue to telephone customers whose monthly basic rate was less than \$8.25.)

Finally, the bill would repeal this section of the Telecommunications Act effective June 1, 1999.

In addition, Senate Bill 788 would amend section 361 of the Telecommunications Act to add "an educational institution establishing a telecommunication system" to the list of entities for whom a provider is now required by law to establish rates, terms, and conditions for attachments. Under current law, providers are required to offer attachments for two entities: another provider, and cable service. (Current law specifies that "attachment" means any wire, cable, facility, or other apparatus installed upon any pole or in any duct or conduit, owned or controlled, in whole or in part, by a provider.)

MCL 484.2316 and 484.2361

HOUSE COMMITTEE ACTION:

The House Public Utilities Committee adopted a substitute for Senate Bill 788. The House committee substitute added to the Senate-passed version a provision to require that providers of basic telephone service allow schools intending to operate a telephone system to attach fiber optic cable to the providers' utility poles.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, Senate Bill 788 (H-1) would have no fiscal impact on state or local government as it regulates private telephone providers and consumers. (12-2-97)

ARGUMENTS:

For:

Michigan's low income lifeline program is inadequate; its credit too modest. This legislation will bring Michigan's low-income lifeline program into compliance with new FCC lifeline guidelines. Without an increase in the credit (currently capped at \$4.00) before January 1, 1998, Michigan would no longer be eligible for federal funds to subsidize telephone rates for low-income telephone customers. This bill increases the \$4.00 cap or credit to \$8.25, of which \$6.25 would be federal funds and \$2.00 state funds.

For:

Although the Michigan Telecommunications Act allows school districts to establish and operate linked telecommunication networks, school districts are sometimes denied the use of utility poles that are owned by telephone companies. The House substitute for Senate Bill 788 would require telephone companies to allow school districts access to their utility poles, in the same manner that competing phone companies and cable companies are now required to have access. Schools need access to the poles in order to attach the fiber optic cable that links their telecommunication networks.

Against:

The Michigan Telecommunications Act is set to sunset on January 1, 2001. Yet Senate Bill 788 would repeal the entire section of the act that provides lifeline service on June 1, 1999, more than a year before the entire act is scheduled to sunset. This could well have the effect of removing these services from the overall re-negotiation process, and could, consequently, jeopardize their availability.

POSITIONS:

Ameritech supports the bill. (12-4-97)

GTE supports the bill. (12-4-97)

The Telecommunications Association of Michigan supports the bill. (12-4-97)

MCI supports the bill. (12-2-97)

Oakland Schools (the intermediate school district serving 28 school districts in Oakland County) supports the House Substitute for Senate Bill 788. (12-5-97)

Sprint supports the bill without a sunset provision. (12-3-97)

AT&T supports the bill without a sunset provision. (12-3-97)

The Public Service Commission has no position on the bill. (12-3-97)

Analyst: J. Hunault
