

PSC TELECOMMUNICATIONS RULEMAKING

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House Bill 6337 as enrolled

Public Act 591 of 2004

Sponsor: Rep. Ken Bradstreet

House Committee: Energy and Technology (Discharged)

Senate Committee: Technology and Energy (Discharged)

Complete to 1-6-05

A SUMMARY OF HOUSE BILL 6337 AS ENROLLED

The bill would amend the Michigan Telecommunications Act to do the following:

- Delete a provision that prevents the Michigan Public Service Commission from promulgating rules and, essentially, legitimize rules promulgated after January 1, 1996.
- Specify that certain rules—R 484.453 (5), 484.455 (2), 484.455 (3), 484.457 (3), 484.458 (4)—could not be enforced until a court determines they do not exceed the PSC's authority under the act. Nevertheless, the bill also says, *"It is the legislature's intent that providers voluntarily comply with the rules until a court makes a determination. A provider that voluntarily agrees to abide by the rules does not relinquish its rights to challenge the legality of the rules."*

The rules referred to above, generally speaking, are commonly referred to as quality of service rules and cover the areas of customer repair requests, out-of-service repairs, repair appointments and commitments, and installation commitments. Typically, they require customer credits when specified telecommunications problems are not addressed satisfactorily.

- Repeal Section 213 (granting rulemaking authority to the PSC) effective July 1, 2005.

MCL 484.2213

[A recent decision by the Michigan Court of Appeals said that the PSC lacks the authority to promulgate rules under the Michigan Telecommunications Act. That decision was based on the Michigan Supreme Court's finding in June 2000 that two sections of the Administrative Procedures Act are unconstitutional. The appeals court case is known as Verizon North, Inc. v Public Service Commission and the opinion was published September 16, 2004. The case is under appeal.]

FISCAL IMPACT:

There is no fiscal impact on the State of Michigan government or local units of government.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.