

2674

2009-2010 Regular Sessions

I N S E N A T E

February 26, 2009

Introduced by Sens. MORAHAN, LARKIN, MAZIARZ, PADAVAN, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to direct the public service commission to prepare a report on the impact of the proposed elimination of portions of the public service law and of title 16 of the NYCRR and proposed changes to said commission's practices with regard to the enforcement of existing portions of said law and of the NYCRR concerning universal access to adequate and affordable telephone service, consumer protection, and service quality

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and purpose. The legislature finds  
2 that universal access to affordable telephone service, consumer  
3 protection, and quality telephone service have been a longstanding  
4 tradition and policy of the state. This policy has, however, come into  
5 question in light of proposals by the department of public service in  
6 case 05-C-0616 to deregulate the telecommunications industry in New York  
7 state by limiting administratively the application or enforcement of  
8 significant portions of the public service law and of title 16 (depart-  
9 ment of public service) of the official compilation of codes, rules and  
10 regulations of the state of New York (hereinafter NYCRR) relating to  
11 telecommunications services and companies or by failing to extend such  
12 laws and rules to new entities providing telecommunications services in  
13 New York. Our state's commitment to universal service, long taken for  
14 granted, must now be restated to ensure that it is uncompromised by  
15 deregulation initiatives that the commission advances through this or  
16 any related case; the availability and timely development of basic  
17 consumer protections, such as ubiquitous E-911 service, must now be  
18 reevaluated to ensure that these protections are not sacrificed if the  
19 commission elects to advance its deregulation initiatives in this or any  
20 related case; and the provision of adequate service by telephone corpo-  
21 rations, long ensured by parts 602 and 603 et seq. of title 16 of NYCRR  
22 and by service quality plans and fines, must now be protected and

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 enhanced to ensure that such service quality survives any implementation  
2 of the deregulatory initiatives that the commission elects to advance in  
3 this or any related case.

4 S 2. (A)(i) The public service commission shall immediately suspend  
5 the proceeding entitled case 05-C-0616 ("Comp. III") and shall prepare  
6 and issue a report as described in this section on the potential effects  
7 of such proceeding to the governor, temporary president of the senate,  
8 speaker of the assembly, minority leaders of the senate and assembly,  
9 chairperson and ranking minority member of the senate energy and tele-  
10 communications committee, and the chairperson and ranking minority  
11 member of the assembly corporations, authorities and commissions commit-  
12 tee. Such report shall be transmitted to said persons on April 1, 2010.

13 (ii) The report shall evaluate in detail the implications of the  
14 following:

15 (a) the elimination or consolidation of parts 602, 603, and 609 of  
16 title 16 of NYCRR;

17 (b) the elimination or consolidation of those portions of title 16 of  
18 NYCRR set forth in the "Telephone Regulatory Convergence Matrix" issued  
19 in case 05-C-0616;

20 (c) the effect upon universal service caused by the proposed increases  
21 to local exchange company rates;

22 (d) the effect upon consumers of the failure to extend existing law  
23 and rules to new entrants supplying telephone services in New York  
24 state;

25 (e) the effect upon consumers living in rural and high cost areas of  
26 the increased local exchange company rates proposed in case 05-C-0616;

27 (f) the effect upon independent upstate telephone corporations of the  
28 policies set forth in the department's white paper and whether or not  
29 such small, independent companies will go out of business, causing a net  
30 loss of jobs and tax revenues to upstate New York; and

31 (g) the failure to maintain subscribership in the existing telephone  
32 lifeline program.

33 (iii) If the public service commission has issued any decisions in  
34 case 05-C-0616, or has issued an order or orders, or taken any other  
35 final actions in such proceeding before the effective date of this act,  
36 the public service commission shall immediately forbear from carrying  
37 out such decisions, orders and final actions, and shall stay or vacate  
38 such decisions or orders or other final actions, as applicable, until it  
39 has completed the study and report process set forth in this section.

40 (B) Within forty-five days after the public service commission trans-  
41 mits the report provided for in subdivision (A) of this section, the  
42 governor, the temporary president of the senate, the speaker of the  
43 assembly, the minority leaders of the senate and assembly, the chair-  
44 person and ranking minority member of the senate energy and telecommuni-  
45 cations committee, and the chairperson and ranking minority member of  
46 the assembly corporations, authorities and commissions committee may,  
47 severally or collectively, submit further issues for study and inclusion  
48 in such report, which said commission shall study and include within an  
49 appendix to such report within sixty days after receipt of any such  
50 submission. The public service commission shall neither take any final  
51 action in case 05-C-0616, nor act upon such final action, nor initiate  
52 or take such action in a collateral proceeding to effectuate the policy  
53 and deregulatory goals of case 05-C-0616 until such report and its  
54 appendix, if any, have been completed and transmitted to said persons.

55 S 3. This act shall take effect immediately.