S T A T E O F N E W Y O R K

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:

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

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

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

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

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

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

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

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

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

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

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

(B) Within forty-five days after the public service commission transmits the report provided for in subdivision (A) of this section, the governor, the temporary president of the senate, the speaker of the assembly, the minority leaders of the senate and assembly, the chairperson and ranking minority member of the senate energy and telecommunications committee, and the chairperson and ranking minority member of the assembly corporations, authorities and commissions committee may, severally or collectively, submit further issues for study and inclusion in such report, which said commission shall study and include within an appendix to such report within sixty days after receipt of any such submission. The public service commission shall neither take any final action in case 05-C-0616, nor act upon such final action, nor initiate or take such action in a collateral proceeding to effectuate the policy and deregulatory goals of case 05-C-0616 until such report and its appendix, if any, have been completed and transmitted to said persons.

S 3. This act shall take effect immediately.