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431

2009-2010 Regular Sessions

I N  S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to telephone access for all New Yorkers

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

Section 1. The public service law is amended by adding a new section 91-b to read as follows:

S 91-B. TELEPHONE ACCESS FOR ALL NEW YORKERS. 1. THE COMMISSION SHALL ESTABLISH AND ADMINISTER A STATEWIDE PROGRAM TO DISTRIBUTE, AT NO COST TO THE RECIPIENTS, ASSISTIVE TELECOMMUNICATIONS DEVICES TO PERSONS WHO ARE DEAF, HARD OF HEARING, SEVERELY SPEECH IMPAIRED, OR DEAF-BLIND, OR ADAPTIVE EQUIPMENT TO PERMIT THE USE OF TELECOMMUNICATIONS EQUIPMENT TO PERSONS WITH OTHER PHYSICAL DISABILITIES SO THAT TELEPHONE SERVICE SHALL BE MADE GENERALLY AVAILABLE TO ALL DISABLED PERSONS IN THE STATE.

2. IN ORDER TO BE ELIGIBLE TO RECEIVE ASSISTIVE TELECOMMUNICATION DEVICES OR ADAPTIVE EQUIPMENT, INDIVIDUALS MUST BE AT LEAST FIVE YEARS OLD AND MUST BE CERTIFIED AS HAVING THE DISABILITY THAT REQUIRES THE PARTICULAR ASSISTIVE TELECOMMUNICATION DEVICES OR ADAPTIVE EQUIPMENT REQUESTED BY THE INDIVIDUAL BY A PERSON OR AGENCY AUTHORIZED BY THE COMMISSION TO MAKE SUCH CERTIFICATIONS. SUCH PERSONS SHALL INCLUDE BUT NEED NOT BE LIMITED TO PHYSICIANS, AUDIOLOGISTS, SPEECH-LANGUAGE PATHOLOGISTS, VOCATIONAL REHABILITATION COUNSELORS, OR OTHER QUALIFIED PROFESSIONALS WITHIN THE AREA OF THEIR QUALIFICATIONS.

3. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, AN INDIVIDUAL WHO IS HEARING IMPAIRED TO A DEGREE THAT THE ONLY ASSISTIVE TELECOMMUNICATION DEVICES REQUIRED FOR EFFECTIVE TELEPHONE COMMUNICATIONS WOULD BE AN AMPLIFIER, AMPLIFIED TELEPHONE, AN AUDIBLE SIGNALING DEVICE, OR ANY COMBINATION THEREOF THAT ARE READILY AVAILABLE ON THE RETAIL MARKET AT A

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

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PRICE SUCH THAT THE COST (AS DETERMINED BY THE COMMISSION) OF THE COMBINATION OF SUCH DEVICES DOES NOT EXCEED TWO HUNDRED PERCENT OF THE AVERAGE COST OF A NON-AMPLIFIED TELEPHONE OF SIMILAR QUALITY SHALL NOT BE ENTITLED TO RECEIVE SUCH ASSISTIVE TELECOMMUNICATION DEVICES UNLESS THE INDIVIDUAL IS A MEMBER OF A FAMILY WITH A FAMILY INCOME OF LESS THAN TWO HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL.

4. THE COMMISSION SHALL PROMULGATE SUCH REGULATIONS AS ARE NECESSARY TO IMPLEMENT THE PROGRAM ESTABLISHED BY THIS SECTION, INCLUDING, BUT NOT LIMITED TO, REGULATIONS CONCERNING TECHNOLOGY ELIGIBLE FOR DISTRIBUTION, METHODS OF ENCOURAGING AND TAKING ADVANTAGE OF TECHNOLOGICAL ADVANCES, AND METHODS OF ESTABLISHING PRIORITIES AMONG APPLICANTS, WHICH SHALL TAKE INTO CONSIDERATION THE FACT THAT AN APPLICANT HAS ASSISTIVE EQUIPMENT AT THE TIME OF APPLICATION REGARDLESS OF THE SOURCE OF FUNDING FOR SUCH ASSISTIVE EQUIPMENT.

5. THE DEPARTMENT SHALL UTILIZE THE ASSISTANCE OF AND COOPERATE WITH COMMUNITY-BASED PROGRAMS FOR PEOPLE WITH DISABILITIES IN THE AREAS OF TRAINING, OUTREACH, EQUIPMENT DISTRIBUTION, TROUBLESHOOTING, AND OTHER AREAS WHICH MAY BE APPROPRIATE FOR COMMUNITY BASED PROGRAMS. COMMUNITY-BASED PROGRAMS SHALL BE COMPENSATED FOR THE SERVICES WHICH THEY PROVIDE.

6. THE DEPARTMENT SHALL CONVENE AND SUPPORT A CITIZENS ADVISORY COMMITTEE ON TELEPHONE ACCESS FOR ALL NEW YORKERS. THE ADVISORY COMMITTEE SHALL CONSIST OF ONE MEMBER EACH APPOINTED BY THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY, AND AT LEAST FOUR ADDITIONAL MEMBERS WHO REPRESENT PEOPLE WITH DISABILITIES, INCLUDING, BUT NOT LIMITED TO, PEOPLE WHO ARE HARD OF HEARING, DEAF, OR DEAF-BLIND. THE LATTER MEMBERS SHALL BE APPOINTED BY THE GOVERNOR UPON NOMINATION BY PROVIDERS OF COMMUNITY-BASED SERVICES TO PEOPLE WITH DISABILITIES, INDIVIDUALS WITH DISABILITIES, AND OTHER INTERESTED PARTIES.

7. THE DEPARTMENT, IN COOPERATION WITH THE ADVISORY COMMITTEE, SHALL PROVIDE A REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE ASSEMBLY ONE YEAR FROM THE EFFECTIVE DATE OF THIS SECTION AND ANNUALLY ON THAT DATE THEREAFTER. THE REPORT SHALL DOCUMENT THE PROGRESS OF THE PROGRAM IN PROVIDING TELEPHONE ACCESS TO ALL NEW YORKERS.

S 2. Section 18-a of the public service law is amended by adding a new subdivision 3-a to read as follows:

3-A. THE CHAIRPERSON OF THE COMMISSION SHALL ESTIMATE, PRIOR TO THE START OF EACH FISCAL YEAR BEGINNING AFTER MARCH THIRTY-FIRST OF THE YEAR AFTER THE YEAR IN WHICH THIS SUBDIVISION WAS ADDED, THE TOTAL COSTS AND EXPENSES OF OPERATING THE PROGRAM TO PROVIDE EQUIPMENT TO ALLOW TELEPHONE ACCESS TO ALL NEW YORKERS ESTABLISHED PURSUANT TO SECTION NINETY-ONE-B OF THIS CHAPTER FOR THE FOLLOWING FISCAL YEAR, INCLUDING THE COSTS OF EQUIPMENT AND OF ADMINISTERING THE PROGRAM. BASED ON SUCH ESTIMATE, THE CHAIRPERSON SHALL DETERMINE THE AMOUNT TO BE PAID AS A CONDITION OF DOING BUSINESS WITHIN THIS STATE BY EACH TELECOMMUNICATIONS COMPANY THAT PROVIDES LOCAL SERVICE IN THIS STATE; PROVIDED, HOWEVER, THAT THE TOTAL COSTS AND EXPENSES SHALL BE ALLOCATED TO EACH SUCH TELECOMMUNICATIONS COMPANY IN THE PROPORTION THAT THE NUMBER OF TELEPHONE LINES IN THIS STATE OF EACH SUCH TELECOMMUNICATIONS COMPANY BEARS TO THE TOTAL NUMBER OF LINES IN THE STATE, AND A BILL SHALL BE RENDERED THEREFOR TO EACH SUCH TELECOMMUNICATIONS COMPANY ACCORDINGLY.

S 3. Subdivision 5 of section 18-a of the public service law, as amended by chapter 788 of the laws of 1978, is amended to read as follows:

5. On demand made within thirty days of the rendition of any bill pursuant to subdivision two, three, THREE-A, or four of this section, the party so charged shall be afforded an opportunity to be heard as to the amount thereof. Any amounts of such bills not paid within thirty days from the date of determination upon such hearings, or, if none shall be demanded, on the date upon which such payment is due, shall bear interest at a rate to be prescribed by regulation of the commission. Such rate shall be not less than six [percentum] PER CENTUM per annum nor more than the rate of interest prescribed by the banking board pursuant to the provisions of section fourteen-a of the banking law in effect on the day immediately [preceeding] PRECEDING the date on which the provisions of this subdivision, as amended, become effective, but if the commission has not set such rate, interest at six [percentum] PER CENTUM per annum shall apply. Any interest rate set by the commission shall become effective not less than sixty days after such rate is promulgated.

S 4. This act shall take effect immediately.