

8459

2011-2012 Regular Sessions

I N A S S E M B L Y

June 17, 2011

Introduced by M. of A. BRENNAN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to eliminating state regulation of VoIP service in order to facilitate competition and ensure consumers receive the maximum benefit of competition

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

1 Section 1. Section 2 of the public service law is amended by adding a
2 new subdivision 28 to read as follows:
3 28. THE TERM "VOICE-OVER-INTERNET PROTOCOL SERVICE" OR "VOIP SERVICE"
4 WHEN USED IN THIS CHAPTER, SHALL MEAN ANY SERVICE THAT: (A) ENABLES
5 REAL-TIME TWO-WAY VOICE COMMUNICATIONS THAT ORIGINATE FROM OR TERMINATE
6 TO THE USER'S LOCATION USING INTERNET PROTOCOL OR ANY SUCCESSOR PROTO-
7 COL; (B) USES A BROADBAND CONNECTION FROM THE USER'S LOCATION; AND (C)
8 PERMITS USERS GENERALLY TO RECEIVE CALLS THAT ORIGINATE ON THE PUBLIC
9 SWITCHED TELEPHONE NETWORK AND TO TERMINATE CALLS TO THE PUBLIC SWITCHED
10 TELEPHONE NETWORK.
11 S 2. Paragraph d of subdivision 1 of section 5 of the public service
12 law, as amended by chapter 155 of the laws of 1970, is amended to read
13 as follows:
14 d. To every telephone line which lies wholly within the state and that
15 part within the state of New York of every telephone line which lies
16 partly within and partly without the state and to the persons or corpo-
17 rations owning, leasing or operating any such telephone line. NOTWITH-
18 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NEITHER THE COMMIS-
19 SION, THE DEPARTMENT OF PUBLIC SERVICE, NOR ANY OTHER DEPARTMENT OR
20 AGENCY OF THIS STATE, OR ANY POLITICAL SUBDIVISION THEREOF, SHALL HAVE
21 AUTHORITY TO REGULATE THE ENTRY, RATES OR OTHER TERMS OF SERVICE OF
22 VOICE-OVER-INTERNET PROTOCOL SERVICE. PROVIDED, HOWEVER, THAT NOTHING
23 IN THIS PARAGRAPH SHALL AFFECT THE AUTHORITY OF THE STATE OR ITS AGEN-
24 CIES TO ENFORCE SUCH REQUIREMENTS AS ARE OTHERWISE EXPRESSLY PROVIDED

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

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1 FOR BY FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, CONNECTION TO 911
2 FACILITIES, THE COLLECTION OF ENHANCED 911 FEES, TELECOMMUNICATIONS
3 RELAY SERVICE FEES, OR FEDERAL UNIVERSAL SERVICE FUND FEES ON
4 VOICE-OVER-INTERNET PROTOCOL SERVICES THAT MAY BE DETERMINED TO APPLY,
5 OR BE CONSTRUED TO (1) MODIFY OR AFFECT THE RIGHTS, OBLIGATIONS OR
6 AUTHORITY OF ANY ENTITY, INCLUDING BUT NOT LIMITED TO THE PUBLIC SERVICE
7 COMMISSION, TO ACT PURSUANT TO, OR ENFORCE THE PROVISIONS OF 47 U.S.C.
8 251, 47 U.S.C. 252, ANY APPLICABLE TARIFF, OR ANY STATE LAW, RULE, REGU-
9 LATION OR ORDER RELATED TO WHOLESALE RIGHTS, DUTIES AND OBLIGATIONS,
10 INCLUDING THE RIGHTS, DUTIES, AND OBLIGATIONS OF LOCAL EXCHANGE CARRIERS
11 TO INTERCONNECT AND EXCHANGE VOICE TRAFFIC; (2) MODIFY OR AFFECT THE
12 AUTHORITY OF THE PUBLIC SERVICE COMMISSION TO IMPLEMENT, CARRY OUT, AND
13 ENFORCE SUCH PROVISIONS, RIGHTS, DUTIES, OBLIGATIONS OR TARIFF THROUGH
14 ARBITRATION PROCEEDINGS OR OTHER AVAILABLE MECHANISMS AND PROCEDURES; OR
15 (3) AFFECT THE PAYMENT OF SWITCHED NETWORK ACCESS RATES OR OTHER INTER-
16 CARRIER COMPENSATION RATES, AS APPLICABLE. NOTHING HEREIN SHALL BE
17 CONSTRUED TO AFFECT THE APPLICATION OR ENFORCEMENT OF OTHER STATUTES OR
18 REGULATIONS THAT APPLY GENERALLY TO THE CONDUCT OF BUSINESS IN THE
19 STATE, INCLUDING CONSUMER PROTECTION, OR UNFAIR OR DECEPTIVE TRADE PRAC-
20 TICES RULES OF GENERAL APPLICABILITY.

21 S 3. Subdivision 1 of section 90 of the public service law, as amended
22 by chapter 414 of the laws of 1981, is amended to read as follows:

23 1. [The] EXCEPT AS PROVIDED IN PARAGRAPH D OF SUBDIVISION ONE OF
24 SECTION FIVE OF THIS CHAPTER, THE provisions of this article shall apply
25 to communication by telegraph or telephone between one point and another
26 within the state of New York and to every telegraph corporation and
27 telephone corporation.

28 S 4. This act shall take effect immediately.