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

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I N A S S E M B L Y

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Introduced by M. of A. BRENNAN, DESTITO, HOYT, CAHILL, PEOPLES-STOKES, JACOBS, J. RIVERA, COLTON, CLARK, WEPRIN -- Multi-Sponsored by -- M. of A. ABBATE, AUBRY, BENEDETTO, BING, BOYLAND, BROOK-KRASNY, COOK, CYMBROWITZ, DINOWITZ, GALEF, GLICK, GOTTFRIED, HEASTIE, HOOPER, LATIMER, LIFTON, MAYERSOHN, McENENY, MILLMAN, ORTIZ, PAULIN, PHEFFER, P. RIVERA, ROBINSON, ROSENTHAL, SCHROEDER, TOWNS, WEISENBERG -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the state technology law, in relation to establishing community access networks

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

Section 1. The state technology law is amended by adding a new section 310 to read as follows:

S 310. COMMUNITY ACCESS NETWORKS. 1. DEFINITIONS. A. "STATE ENTITY" SHALL MEAN:

(I) ANY STATE BOARD, BUREAU, DIVISION, COMMITTEE, COMMISSION, COUNCIL, DEPARTMENT, PUBLIC AUTHORITY, PUBLIC BENEFIT CORPORATION, OFFICE OR OTHER ENTITY PERFORMING A GOVERNMENTAL OR PROPRIETARY FUNCTION FOR THE STATE OF NEW YORK;

(II) ALL CITIES, COUNTIES, MUNICIPALITIES, VILLAGES, TOWNS, AND OTHER LOCAL AGENCIES; BUT SHALL NOT INCLUDE THE JUDICIARY.

B. "SPONSORED WIRELESS INFORMATION NETWORK" SHALL MEAN A STATE ENTITY SYSTEM THAT TRANSMITS PACKETIZED VOICE, VIDEO AND/OR DATA BETWEEN USERS WITHOUT UTILIZING WIRES AS ITS SOLE MEANS OF TRANSMISSION.

C. "APPROVED WIRELESS INFORMATION NETWORK" SHALL MEAN A SYSTEM:

(I) APPROVED BY A STATE ENTITY AFTER A REQUEST FOR PROPOSALS FOR COLLOCATION ON STATE ENTITY PROPERTY; AND

(II) THAT TRANSMITS PACKETIZED VOICE, VIDEO AND/OR DATA BETWEEN USERS WITHOUT UTILIZING WIRES AS ITS SOLE MEANS OF TRANSMISSION. INSTALLATION, EQUIPMENT, CONSTRUCTION, OPERATING AND OTHER REASONABLE COSTS TO BE DETERMINED BY THE STATE ENTITY, SHALL NOT BE INCURRED BY THE STATE ENTI-

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

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TY, PROVIDED THAT THE APPROVAL FROM THE STATE ENTITY FOR COLLOCATION IS GRANTED AT NO COST. STATE ENTITY APPROVAL OF COLLOCATION MAY ONLY BE WITHHELD WHEN IT CAN BE SHOWN THAT SUCH COLLOCATION WOULD CAUSE UNAVOIDABLE DAMAGE TO STATE ENTITY PROPERTY OR SECURITY. PREFERENCE FOR COLLOCATING EQUIPMENT SHALL FIRST BE GIVEN TO ENTITIES LISTED IN SUBPARAGRAPH (I) OF PARAGRAPH A OF THIS SUBDIVISION AND THEN TO ENTITIES LISTED IN SUBPARAGRAPH (II) OF PARAGRAPH A OF THIS SUBDIVISION. OPERATORS OF AN APPROVED INFORMATION NETWORK SHALL NOT EXERCISE ANY EDITORIAL CONTROL OVER ANY PUBLIC, EDUCATIONAL, OR GOVERNMENTAL USE OF CAPACITY PROVIDED PURSUANT TO THIS SECTION, EXCEPT THAT THEY MAY REFUSE TO TRANSMIT ANY CONTENT WHICH CONTAINS OBSCENITY, INDECENCY, OR NUDITY.

D. "COMMUNITY ACCESS NETWORK" SHALL MEAN A SYSTEM AS DESCRIBED IN PARAGRAPH B OR C OF THIS SUBDIVISION WHICH IS PROVIDED AT NO COST TO THE END USER AND WHICH HAS AT LEAST PORTIONS THAT ARE OPEN FOR PUBLIC USE. COMMUNITY ACCESS NETWORKS SHALL:

(I) EMPLOY NON-PROPRIETARY NETWORKING PROTOCOLS IN ORDER TO ALLOW THE USE OF NON-VENDOR SPECIFIC NETWORKING EQUIPMENT;

(II) BE DESIGNED TO ALLOW ACCESS TO PUBLICLY AVAILABLE GOVERNMENT AND OTHER INFORMATION;

(III) NOT IMPEDE PUBLIC SAFETY PURPOSES; AND

(IV) HAVE SUFFICIENT SECURITY TO ALLOW THE GOVERNMENT TO RESTRICT ACCESS BY ANY INDIVIDUAL OR INDIVIDUALS TEMPORARILY OR PERMANENTLY BASED ON PUBLIC SAFETY NEEDS AND THE LEGITIMATE NEEDS OF LAW ENFORCEMENT.

E. "PACKETIZED" SHALL MEAN INFORMATION WHICH IS DIVIDED INTO PARTS BEFORE BEING SENT, TRANSMITTED INDIVIDUALLY, WITHOUT THE NECESSITY OF BEING SENT SEQUENTIALLY, AND THEN RECOMPILED INTO THE ORIGINAL MESSAGE UPON ARRIVAL AT ITS DESTINATION.

F. "COLLOCATION" SHALL MEAN THE PROVISION OF SPACE PERMANENTLY OR TEMPORARILY FOR NON-STATE ENTITY EQUIPMENT ON THE STATE ENTITY'S PREMISES, EQUIPMENT, OR ON A TEMPORARY BASIS, UNUTILIZED RADIO FREQUENCIES.

G. "DARK FIBER" SHALL MEAN UNUTILIZED STRANDS OF FIBER OPTIC CABLE.

H. "WHOLESALE NETWORK" SHALL MEAN AN OPERATED, OWNED OR LEASED FIBER OPTIC NETWORK WHICH IS AVAILABLE FOR USE TO ANY NETWORK OPERATOR TO OFFER SERVICES TO END USERS.

2. CREATION OF COMMUNITY ACCESS NETWORKS AND NECESSARY REPORTS TO THE STATE OFFICE FOR TECHNOLOGY. ANY STATE ENTITY WHICH CREATES, BUILDS, MAINTAINS OR UPGRADES A GOVERNMENT SPONSORED OR GOVERNMENT APPROVED WIRELESS INFORMATION NETWORK SHALL:

A. FOLLOW BEST PRACTICES IN CREATING A COMMUNITY ACCESS NETWORK OR NETWORKS AS PART OF THEIR SPONSORED WIRELESS INFORMATION NETWORK; OR ALLOW FOR COLLOCATION OF A COMMUNITY ACCESS NETWORK PROVIDED VIA AN APPROVED WIRELESS INFORMATION NETWORK; AND

B. REPORT ON THE STATUS OF COMMUNITY ACCESS NETWORKS TO THE STATE OFFICE FOR TECHNOLOGY NO LATER THAN JULY FIRST OF EACH YEAR.

3. PROGRESS REPORT REQUIREMENT TO LEGISLATURE. ANNUALLY ON OR BEFORE SEPTEMBER THIRTIETH THE STATE OFFICE FOR TECHNOLOGY SHALL PROVIDE A REPORT TO THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE DETAILING NETWORKS CREATED PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

4. MUNICIPAL USE OF STATE'S DARK FIBER FOR COMMUNITY ACCESS NETWORK. IF ANY ENTITY IDENTIFIED IN SUBPARAGRAPH (II) OF PARAGRAPH A OF SUBDIVISION ONE OF THIS SECTION SENDS A STATUS REPORT INDICATING THEIR INTENT TO SPONSOR OR APPROVE THE CREATION OF A COMMUNITY ACCESS NETWORK, THEY SHALL BE GIVEN ACCESS TO DARK FIBER LEASED BY ANY ENTITY IDENTIFIED IN SUBPARAGRAPH (I) OF PARAGRAPH A OF SUBDIVISION ONE OF THIS SECTION FREE

OF CHARGE FOR THE PURPOSES OF CREATION OF COMMUNITY ACCESS NETWORKS OR FOR GOVERNMENT ENTITY USE.

5. STUDY OF THE CREATION OF WHOLESALE NETWORKS. ANY ENTITY LISTED IN SUBPARAGRAPH (II) OF PARAGRAPH A OF SUBDIVISION ONE OF THIS SECTION SHALL STUDY AND REPORT BY OCTOBER THIRTIETH, TWO THOUSAND TWELVE ON FEASIBILITY AND COST OF THE CREATION OF WHOLESALE BROADBAND NETWORKS OVER WHICH ANY COMPETITIVE BROADBAND PROVIDERS MAY FURNISH SERVICES TO INDIVIDUALS. ANY SUCH WHOLESALE NETWORK SHALL SHOW NO PREFERENCE TO ANY PROVIDER, INCLUDING A MUNICIPAL PROVIDER. SUCH REPORT SHALL BE SENT TO THE STATE OFFICE FOR TECHNOLOGY, THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE.

6. STUDY OF SOCIAL NETWORKING APPLICATIONS AND COMMUNITY-CENTERED SERVICES. THE STATE OFFICE FOR TECHNOLOGY SHALL STUDY AND REPORT ON JANUARY TWELFTH, TWO THOUSAND TWELVE ON POTENTIAL SOCIAL NETWORKING USES, APPLICATIONS AND COMMUNITY CENTERED SERVICES WHICH COULD BE ENABLED AND EXTENDED BY THE CREATION OF FREE INTERNET ACCESS. SUCH REPORT SHALL BE SENT TO THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE.

S 2. This act shall take effect immediately.