

5753

2011-2012 Regular Sessions

I N A S S E M B L Y

February 28, 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 OR TERMINATE FROM
6 THE USER'S LOCATION USING INTERNET PROTOCOL OR A SUCCESSOR PROTOCOL, AND
7 (B) USES A BROADBAND CONNECTION FROM THE USER'S LOCATION.
8 S 2. Paragraph e of subdivision 1 of section 5 of the public service
9 law, as amended by chapter 155 of the laws of 1970, is amended to read
10 as follows:
11 e. To every telegraph line which lies wholly within the state and that
12 part within the state of New York of every telegraph line which lies
13 partly within and partly without the state and to the persons or corporations
14 owning, leasing or operating any such telegraph line. NOTWITH-
15 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NEITHER THE COMMIS-
16 SION, THE DEPARTMENT OF PUBLIC SERVICE, NOR ANY OTHER DEPARTMENT OR
17 AGENCY OF THIS STATE, OR ANY POLITICAL SUBDIVISION THEREOF, SHALL HAVE
18 AUTHORITY TO REGULATE THE ENTRY, RATES OR OTHER TERMS OF SERVICE OF
19 VOICE OVER INTERNET PROTOCOL SERVICE. PROVIDED, HOWEVER, THAT NOTHING IN
20 THIS PARAGRAPH SHALL BE CONSTRUED TO DIVEST THE COMMISSION OF ITS
21 AUTHORITY WITH RESPECT TO THE RATES, TERMS OR CONDITIONS OF ANY LOCAL
22 EXCHANGE TELEPHONE SERVICE OVER WHICH THE COMMISSION EXERCISED ITS
23 LAWFUL JURISDICTION PRIOR TO JANUARY FIRST, TWO THOUSAND ELEVEN.
24 PROVIDED, FURTHER, THAT NOTHING IN THIS PARAGRAPH SHALL AFFECT THE

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

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1 AUTHORITY OF THE STATE OR ITS AGENCIES TO ENFORCE SUCH REQUIREMENTS AS
2 ARE OTHERWISE EXPRESSLY PROVIDED FOR BY FEDERAL LAW, INCLUDING, BUT NOT
3 LIMITED TO, CONNECTION TO 9-1-1 FACILITIES, THE COLLECTION OF ENHANCED
4 911 FEES, TELECOMMUNICATIONS RELAY SERVICE FEES, OR FEDERAL UNIVERSAL
5 SERVICE FUND FEES ON VOICE OVER INTERNET PROTOCOL SERVICES THAT MAY BE
6 DETERMINED TO APPLY OR TO AFFECT ANY RIGHTS OR DUTIES THE STATE OR ITS
7 AGENCIES MAY HAVE UNDER THE PROVISIONS OF 47 U.S.C. S251 OR 47 U.S.C.
8 S252. NOTHING HEREIN SHALL BE CONSTRUED TO AFFECT THE APPLICATION OR
9 ENFORCEMENT OF OTHER STATUTES OR REGULATIONS THAT APPLY GENERALLY TO THE
10 CONDUCT OF BUSINESS IN THE STATE, INCLUDING CONSUMER PROTECTION, OR
11 UNFAIR OR DECEPTIVE TRADE PRACTICES RULES OF GENERAL APPLICABILITY.

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

14 1. The provisions of this article shall apply to communication by
15 telegraph or telephone between one point and another within the state of
16 New York and to every telegraph corporation and telephone corporation.
17 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NEITHER THE
18 COMMISSION, THE DEPARTMENT OF PUBLIC SERVICE, NOR ANY OTHER DEPARTMENT
19 OR AGENCY OF THIS STATE, OR ANY POLITICAL SUBDIVISION THEREOF, SHALL
20 HAVE AUTHORITY TO REGULATE THE ENTRY, RATES OR OTHER TERMS OF SERVICE OF
21 VOICE OVER INTERNET PROTOCOL SERVICE. PROVIDED, HOWEVER, THAT NOTHING IN
22 THIS PARAGRAPH SHALL BE CONSTRUED TO DIVEST THE COMMISSION OF ITS
23 AUTHORITY WITH RESPECT TO THE RATES, TERMS OR CONDITIONS OF ANY LOCAL
24 EXCHANGE TELEPHONE SERVICE OVER WHICH THE COMMISSION EXERCISED ITS
25 LAWFUL JURISDICTION PRIOR TO JANUARY FIRST, TWO THOUSAND ELEVEN.
26 PROVIDED FURTHER, HOWEVER, THAT NOTHING IN THIS PARAGRAPH SHALL AFFECT
27 THE AUTHORITY OF THE STATE OR ITS AGENCIES TO ENFORCE SUCH REQUIREMENTS
28 AS ARE OTHERWISE EXPRESSLY PROVIDED FOR BY FEDERAL LAW, INCLUDING, BUT
29 NOT LIMITED TO, CONNECTION TO 9-1-1 FACILITIES, THE COLLECTION OF
30 ENHANCED 911 FEES, TELECOMMUNICATIONS RELAY SERVICE FEES, OR FEDERAL
31 UNIVERSAL SERVICE FUND FEES ON VOICE OVER INTERNET PROTOCOL SERVICES
32 THAT MAY BE DETERMINED TO APPLY OR TO AFFECT ANY RIGHTS OR DUTIES THE
33 STATE OR ITS AGENCIES MAY HAVE UNDER THE PROVISIONS OF 47 U.S.C. S251 OR
34 47 U.S.C. S252. NOTHING HEREIN SHALL BE CONSTRUED TO AFFECT THE APPLI-
35 CATION OR ENFORCEMENT OF OTHER STATUTES OR REGULATIONS THAT APPLY GENER-
36 ALLY TO THE CONDUCT OF BUSINESS IN THE STATE, INCLUDING CONSUMER
37 PROTECTION, OR UNFAIR OR DECEPTIVE TRADE PRACTICES RULES OF GENERAL
38 APPLICABILITY.

39 S 4. This act shall take effect immediately.