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

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:

Section 1. Section 2 of the public service law is amended by adding a new subdivision 28 to read as follows:

28. THE TERM "VOICE-OVER-INTERNET PROTOCOL SERVICE" OR "VOIP SERVICE" WHEN USED IN THIS CHAPTER, SHALL MEAN ANY SERVICE THAT: (A) ENABLES REAL-TIME TWO-WAY VOICE COMMUNICATIONS THAT ORIGINATE FROM OR TERMINATE TO THE USER'S LOCATION USING INTERNET PROTOCOL OR ANY SUCCESSOR PROTOCOL; (B) USES A BROADBAND CONNECTION FROM THE USER'S LOCATION; AND (C) PERMITS USERS GENERALLY TO RECEIVE CALLS THAT ORIGINATE ON THE PUBLIC SWITCHED TELEPHONE NETWORK AND TO TERMINATE CALLS TO THE PUBLIC SWITCHED TELEPHONE NETWORK.

S 2. Paragraph d of subdivision 1 of section 5 of the public service law, as amended by chapter 155 of the laws of 1970, is amended to read as follows:

d. To every telephone line which lies wholly within the state and that part within the state of New York of every telephone line which lies partly within and partly without the state and to the persons or corporations owning, leasing or operating any such telephone line. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NEITHER THE COMMISSION, THE DEPARTMENT OF PUBLIC SERVICE, NOR ANY OTHER DEPARTMENT OR AGENCY OF THIS STATE, OR ANY POLITICAL SUBDIVISION THEREOF, SHALL HAVE AUTHORITY TO REGULATE THE ENTRY, RATES OR OTHER TERMS OF SERVICE OF VOICE-OVER-INTERNET PROTOCOL SERVICE. PROVIDED, HOWEVER, THAT NOTHING IN THIS PARAGRAPH SHALL AFFECT THE AUTHORITY OF THE STATE OR ITS AGENCIES 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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FOR BY FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, CONNECTION TO 911 FACILITIES, THE COLLECTION OF ENHANCED 911 FEES, TELECOMMUNICATIONS RELAY SERVICE FEES, OR FEDERAL UNIVERSAL SERVICE FUND FEES ON VOICE-OVER-INTERNET PROTOCOL SERVICES THAT MAY BE DETERMINED TO APPLY, OR BE CONSTRUED TO (1) MODIFY OR AFFECT THE RIGHTS, OBLIGATIONS OR AUTHORITY OF ANY ENTITY, INCLUDING BUT NOT LIMITED TO THE PUBLIC SERVICE COMMISSION, TO ACT PURSUANT TO, OR ENFORCE THE PROVISIONS OF 47 U.S.C. 251, 47 U.S.C. 252, ANY APPLICABLE TARIFF, OR ANY STATE LAW, RULE, REGULATION OR ORDER RELATED TO WHOLESALE RIGHTS, DUTIES AND OBLIGATIONS, INCLUDING THE RIGHTS, DUTIES, AND OBLIGATIONS OF LOCAL EXCHANGE CARRIERS TO INTERCONNECT AND EXCHANGE VOICE TRAFFIC; (2) MODIFY OR AFFECT THE AUTHORITY OF THE PUBLIC SERVICE COMMISSION TO IMPLEMENT, CARRY OUT, AND ENFORCE SUCH PROVISIONS, RIGHTS, DUTIES, OBLIGATIONS OR TARIFF THROUGH ARBITRATION PROCEEDINGS OR OTHER AVAILABLE MECHANISMS AND PROCEDURES; OR (3) AFFECT THE PAYMENT OF SWITCHED NETWORK ACCESS RATES OR OTHER INTERCARRIER COMPENSATION RATES, AS APPLICABLE. NOTHING HEREIN SHALL BE CONSTRUED TO AFFECT THE APPLICATION OR ENFORCEMENT OF OTHER STATUTES OR REGULATIONS THAT APPLY GENERALLY TO THE CONDUCT OF BUSINESS IN THE STATE, INCLUDING CONSUMER PROTECTION, OR UNFAIR OR DECEPTIVE TRADE PRACTICES RULES OF GENERAL APPLICABILITY.

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

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

S 4. This act shall take effect immediately.