

1341

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sen. MAZIARZ -- 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 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

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

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

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

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

30 S 4. This act shall take effect immediately.