

4143--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 1, 2013

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, the public service law, and the executive law, in relation to reforming the telecommunications sector of the New York economy, by creating a broadband authority, authorizing statewide cable franchises for the purposes of competitive cable service, promoting the wide-spread development of high-capacity broadband internet access, and increasing the availability and quality of services in this key economic development area and ensuring the safety, reliability and affordability of telecommunications services

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "omnibus telecommunications reform act of 2014".
3 S 2. Legislative findings. 1. a. It is and has been the long-standing
4 policy of the state of New York that every resident and business in the
5 state of New York has a right to have equal physical and social access
6 to adequate telecommunications services at just and reasonable rates,
7 because universal access to the benefits of telephony is fundamental to
8 effective communication, quality of life, economic development, public
9 safety and security, and democratic participation. Telecommunications,
10 however, is undergoing dramatic changes with new technologies driving
11 the ways people communicate with one another. No matter the source or
12 vehicle by which people communicate with each other, the people of this
13 state have the right to adequate service at just and reasonable rates.
14 Therefore, all telecommunications services must meet the highest stand-
15 ards of quality, reliability, and safety--including protecting and
16 expanding the system of emergency 911 service--which requires sufficient

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

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1 investment in telecommunications infrastructure and, as many years of
2 experience have shown, adequate staffing provided by trained, career
3 employees operating under the applicable safety codes and regulations.

4 b. While the state's long-standing mission has been to provide
5 universal, affordable and reliable service to all New Yorkers, all citi-
6 zens of the state do not have equal access to communications technolo-
7 gies that are becoming the standard bearers for the 21st century. In
8 fact, the state lags behind in deploying communication networks that are
9 the foundation of modern telecommunications. The lack of deployment of
10 high-capacity telecommunications infrastructure services ("broadband")
11 in rural, underserved, unserved, economically distressed and other areas
12 of the state is affected with a public interest; the rates, services and
13 operations of cable television companies are affected with a public
14 interest and it is imperative that the state fairly regulate cable tele-
15 vision services in the interest of the public, and; the public interest
16 is furthered by comprehensive action in the area of telecommunications,
17 and by the state's continued promotion of universally available telecom-
18 munications services of adequate service quality and at affordable
19 rates, particularly in rural, high-cost and low income areas, and the
20 state's entry into promoting the universal availability and physical and
21 social access to high-quality broadband and advanced communications
22 services at affordable rates.

23 c. The deployment of high-capacity broadband telecommunications
24 networks and advanced communications networks throughout New York will
25 promote improvements in healthcare, public safety, education, consumer
26 choice, and the economy.

27 d. State action and public-private partnerships will be needed to
28 deepen investment in, promote demand for, stimulate adoption of, and
29 remove barriers to the development of universally deployed world-class
30 high-capacity broadband networks, providing services to business and
31 residential consumers in all areas of the state at competitive prices
32 with adequate service quality.

33 e. Reasonably unfettered access of the citizenry to the maximally
34 diverse Internet is in the public interest, consistent however with the
35 need or company choice of telecommunications providers to block, limit
36 or otherwise restrict the passage of electronic mail messages or other
37 content that transmit, portray, describe, represent or otherwise contain
38 matters such as child pornography or similar obscenity, other unlawful
39 material, threats of serious bodily harm, threats to the public safety
40 and homeland security, threats of death to individuals or groups of
41 individuals, viruses or similar computer generated programs or codes
42 that have the potential to harm computer hardware and/or software and/or
43 networks, excessive unsolicited commercial email that degrades or inter-
44 feres with or harms the normal operation of broadband networks, and
45 other similar types or forms of material or software (the foregoing
46 examples are illustrative, not exhaustive of such threats to users
47 and/or the network).

48 2. a. New cable television services regulation is necessary to: (i)
49 promote adequate, affordable and efficient cable television service to
50 the citizens and residents of the state; (ii) encourage the optimum
51 development of the educational, government and community-service poten-
52 tials of the cable television medium; (iii) provide just and reasonable
53 rates for cable television service without geographic discrimination;
54 (iv) protect the interests of the municipalities of this state in
55 relation to the issuance of municipal consents for the operations of
56 cable television companies in those jurisdictions; (v) to protect the

1 right of consumers to access the lawful internet content of their
2 choice, to run applications and use services of their choice, subject to
3 the requirements of law enforcement, and to connect their choice of
4 legal devices that do not harm the network; and (vi) cooperate with
5 other states and with the federal government in promoting and coordinat-
6 ing efforts to regulate cable television effectively in the public
7 interest.

8 b. Competition in the provisioning of cable service is emerging with
9 the convergence of preexisting and new technologies for providing voice,
10 video and data services, which results in increased investment in the
11 state, lower prices and improved service offerings for consumers.

12 c. Increased investment and the potential for competition in the cable
13 service market through the provisioning of new communications services
14 and deployment of advanced communications infrastructure further
15 enhances economic opportunities, public safety, and the overall health
16 and well-being of the residents of the state.

17 d. State-issued franchises for the provision of cable service will
18 promote and facilitate the deployment of advanced technologies and new
19 services to all classes of communities and protect New York's ability to
20 compete in the national and international marketplace for industry and
21 jobs.

22 e. Modifying existing cable service regulation through the enactment
23 of new standards and procedures that provide consumers with access to a
24 competitive facilities-based cable market and also preserves munici-
25 palities historic authority to manage public rights-of-way, collect a
26 franchise fee up to five percent of gross revenue, administer public
27 educational and government access channels, enforce consumer protections
28 and ensure competitive cable services are delivered in a nondiscrimina-
29 tory manner is warranted in this state.

30 f. Nothing in this act shall be seen to limit or reduce the protection
31 afforded to cable television customers, broadband internet services
32 customers, telephone customers, and customers of advanced communications
33 services generally, and it is in the public interest to ensure that
34 customers continue to be provided a high level of customer protection
35 and customer service in a more competitive market.

36 3. Therefore, the legislature declares that the state needs to funda-
37 mentally reform the three key pillars of its vast telecommunications
38 system--telephone, broadband internet access and cable television--to
39 provide 21st Century technology to all New Yorkers that is safe, reli-
40 able and affordable.

41 S 3. Article 11 and sections 4000, 4001 and 4002 of the public
42 authorities law, article 11 as renumbered by chapter 168 of the laws of
43 1975 and sections 4000, 4001 and 4002 as renumbered by chapter 182 of
44 the laws of 2005, are renumbered article 12 and sections 4200, 4201 and
45 4202 and a new article 11 is added to read as follows:

46 ARTICLE 11

47 BROADBAND DEVELOPMENT AUTHORITY

48 SECTION 4100. SHORT TITLE.

49 4101. BROADBAND DEVELOPMENT AUTHORITY.

50 4102. DEFINITIONS.

51 4103. POWERS OF THE AUTHORITY.

52 4104. BOARD OF DIRECTORS.

53 4105. BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL.

54 4106. APPLICATIONS FOR BROADBAND DEPLOYMENT FINANCING; RESPONSI-
55 BILITIES OF THE APPLICANT TO PROVIDE SAFE, RELIABLE AND
56 AFFORDABLE SERVICE.

1 4107. BONDS AND NOTES OF THE AUTHORITY.
2 4108. BONDS AND NOTES; PERSONAL LIABILITY.
3 4109. RIGHTS OF AUTHORITY TO FULFILL TERMS OF AGREEMENT NOT
4 LIMITED, ALTERED, OR IMPAIRED.
5 4110. REMEDIES OF BONDHOLDERS AND NOTEHOLDERS.
6 4111. GRANTS OR LOANS OF PUBLIC OR PRIVATE FUNDS OR IN-KIND
7 MATERIAL.
8 4112. EXEMPTION FROM TAXES AND ASSESSMENTS.
9 4113. BROADBAND AND ADVANCED COMMUNICATIONS DEVELOPMENT FUND.
10 4114. APPROPRIATIONS BY ANY GOVERNMENT OR MUNICIPAL CORPORATION.
11 4115. CONVEYANCE, LEASE OR TRANSFER OF PROPERTY BY A CITY OR
12 COUNTY TO THE AUTHORITY.
13 4116. ACTIONS AGAINST THE AUTHORITY.
14 4117. AUDIT POWER AND CONTRACT APPROVAL BY THE COMPTROLLER.
15 4118. ANNUAL REPORT.
16 4119. EFFECT OF INCONSISTENT PROVISIONS.
17 4120. SEVERABILITY.

18 S 4100. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
19 THE "BROADBAND DEVELOPMENT AUTHORITY ACT".

20 S 4101. BROADBAND DEVELOPMENT AUTHORITY. 1. THE NEW YORK STATE BROAD-
21 BAND DEVELOPMENT AUTHORITY IS ESTABLISHED IN ORDER TO ENCOURAGE THE
22 PROVISION OF AFFORDABLE AND RELIABLE BROADBAND SERVICES AND NETWORKS
23 THAT WILL:

24 (A) ENSURE THE LONG TERM GROWTH OF AND THE ENHANCEMENT AND DELIVERY OF
25 SERVICES BY BUSINESS, EDUCATIONAL, MEDICAL, COMMERCIAL, NONPROFIT, AND
26 GOVERNMENTAL ENTITIES IN UNSERVED, UNDERSERVED AND DISTRESSED AREAS IN
27 NEW YORK;

28 (B) BENEFIT RESIDENTIAL, COMMERCIAL, PUBLIC, GOVERNMENTAL, AND NONPRO-
29 FIT ENTITIES IN UNSERVED, UNDERSERVED AND DISTRESSED AREAS IN NEW YORK;
30 AND

31 (C) TO ADVANCE THE AVAILABILITY OF, AND PROMOTE THE PHYSICAL AND
32 SOCIAL ACCESS TO, BROADBAND AND OTHER ADVANCED COMMUNICATIONS SERVICES
33 TO ALL CONSUMERS, INCLUDING THOSE IN LOW INCOME, RURAL, INSULAR, AND
34 HIGH COST AREAS AT RATES THAT ARE REASONABLY COMPARABLE TO THOSE CHARGED
35 IN HIGH-DENSITY URBAN AREAS AND/OR IN THE AREA OF THE STATE WHERE SUCH
36 SERVICES ARE MOST COMPETITIVELY PRICED; AND TO INCREASE ACCESS TO, AND
37 THE UBIQUITY OF, ADVANCED TELECOMMUNICATIONS SERVICES AVAILABLE TO THE
38 PUBLIC IN AN EQUITABLE AND NONDISCRIMINATORY MANNER.

39 2. THE AUTHORITY SHALL ADMINISTER THE BROADBAND DEVELOPMENT PROGRAM,
40 AND SHALL, THROUGH THE BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL
41 CREATED IN SECTION FORTY-ONE HUNDRED FIVE OF THIS ARTICLE, WORK TO BUILD
42 AND FACILITATE LOCAL TECHNOLOGY AND SOCIAL ACCESS PLANNING ENTITIES, AND
43 PARTNERSHIPS WITH BROADBAND INTERNET SERVICES PROVIDERS AND TECHNOLOGY
44 COMPANIES, AND THE PRIVATE AND NONPROFIT SECTORS GENERALLY, AND SUCH
45 OTHER PROGRAMS AS ARE REASONABLY CALCULATED TO FACILITATE THE AUTHORI-
46 TY'S ACHIEVEMENT OF ITS STATUTORY DUTIES.

47 S 4102. DEFINITIONS. 1. "AUTHORITY" MEANS THE NEW YORK STATE BROADBAND
48 DEVELOPMENT AUTHORITY CREATED UNDER SECTION FORTY-ONE HUNDRED ONE OF
49 THIS ARTICLE.

50 2. "UNSERVED AREA" MEANS ANY PART OF A MUNICIPALITY WITHOUT READILY
51 AND GENERALLY AVAILABLE RETAIL CONSUMER ACCESS TO A FACILITIES-BASED OR
52 FIXED WIRELESS BROADBAND SERVICES PROVIDER. FOR THE PURPOSES OF THIS
53 SECTION, THE DEFINITION OF WIRELESS BROADBAND SERVICES PROVIDERS SHALL
54 NOT INCLUDE SUBSCRIPTION SATELLITE SERVICE.

55 3. "UNDERSERVED AREA" MEANS ANY PART OF A MUNICIPALITY WITHOUT READILY
56 AND GENERALLY AVAILABLE RETAIL CONSUMER ACCESS TO AT LEAST TWO OR MORE

1 NONAFFILIATED FACILITIES-BASED OR FIXED WIRELESS BROADBAND TELECOMMUNI-
2 CATIONS SERVICES PROVIDERS. WIRELESS SHALL NOT INCLUDE SUBSCRIPTION
3 SATELLITE SERVICE.

4 4. "BROADBAND" MEANS THE TRANSMISSION OF INFORMATION, BETWEEN OR AMONG
5 POINTS SPECIFIED BY THE USER, WITH OR WITHOUT CHANGE IN THE FORM OR
6 CONTENT OF THE INFORMATION AS SENT AND RECEIVED, AT MINIMUM RATES OF
7 TRANSMISSION OF TWO MEGABITS PER SECOND DOWNSTREAM AND ONE MEGABIT PER
8 SECOND UPSTREAM, OR ONE HUNDRED FIFTY PERCENT OF THOSE TRANSMISSION
9 RATES DEFINED BY THE FEDERAL COMMUNICATIONS COMMISSION AS "BROADBAND,"
10 OR AT THOSE SYNCHRONOUS UPSTREAM AND DOWNSTREAM TRANSMISSION RATES AS
11 MAY BE RECOMMENDED BY THE BROADBAND COUNCIL FROM TIME TO TIME, WHICHEVER
12 IS FASTEST IN SPEED.

13 5. "BROADBAND CARRIER" MEANS ANY PROVIDER OF BROADBAND SERVICES,
14 EXCEPT AGGREGATORS OF BROADBAND SERVICES, AS DEFINED IN SECTION TWO
15 HUNDRED TWENTY-SIX OF THE NINETEEN HUNDRED NINETY-SIX TELECOMMUNICATIONS
16 ACT.

17 6. "BROADBAND INFRASTRUCTURE" MEANS ALL EQUIPMENT AND FACILITIES,
18 INCLUDING ALL CHANGES, MODIFICATIONS, AND EXPANSIONS TO EXISTING FACILI-
19 TIES, AS WELL AS THE CUSTOMER PREMISES EQUIPMENT USED TO PROVIDE BROAD-
20 BAND, AND ANY SOFTWARE INTEGRAL TO OR RELATED TO THE OPERATIONS,
21 SUPPORT, FACILITATION, OR INTERCONNECTION OF SUCH EQUIPMENT, INCLUDING
22 UPGRADES, AND ANY INSTALLATION, OPERATIONS AND SUPPORT, MAINTENANCE, AND
23 OTHER FUNCTIONS REQUIRED TO SUPPORT THE DELIVERY OF BROADBAND.

24 7. "BROADBAND SERVICE" MEANS THE OFFERING OF BROADBAND FOR A FEE
25 DIRECTLY TO THE PUBLIC, OR TO SUCH CLASSES OF USERS AS TO BE READILY
26 AVAILABLE DIRECTLY TO THE PUBLIC, REGARDLESS OF THE FACILITIES USED.

27 8. "OPEN NETWORK" MEANS ANY BROADBAND INFRASTRUCTURE WHICH IS OPEN TO
28 ANY THIRD PARTY USERS IN A NONDISCRIMINATORY MANNER ON A FAIR AND EQUI-
29 TABLE BASIS USING PUBLICLY AVAILABLE ACCESS TARIFFS FOR SERVICES.

30 9. "OPEN NETWORK INTERFACES" MEANS THE TECHNICAL AND OPERATIONAL
31 MEANS, MANNERS, AND METHODS FOR ANY THIRD PARTY ACCESS TO THE BROADBAND
32 INFRASTRUCTURE, WHICH SHALL BE PROVIDED ON THE BASIS OF GENERALLY
33 ACCEPTABLE INDUSTRY STANDARDS AVAILABLE AT THE TIME OF ACCESS.

34 10. "DISTRESSED AREA" MEANS:

35 (A) A CENSUS TRACT OR TRACTS OR BLOCK NUMBERING AREA OR AREAS OR SUCH
36 CENSUS TRACT OR BLOCK NUMBERING AREA CONTIGUOUS THERETO WHICH, ACCORDING
37 TO THE MOST RECENT CENSUS DATA AVAILABLE, HAS:

38 (I) A POVERTY RATE OF AT LEAST TWENTY PERCENT FOR THE YEAR TO WHICH
39 THE DATA RELATES OR AT LEAST TWENTY PERCENT OF HOUSEHOLDS RECEIVING
40 PUBLIC ASSISTANCE; AND

41 (II) AN UNEMPLOYMENT RATE OF AT LEAST ONE AND A QUARTER TIMES THE
42 STATEWIDE UNEMPLOYMENT RATE FOR THE YEAR TO WHICH THE DATA RELATES; OR

43 (B) A CITY, TOWN, VILLAGE OR COUNTY WITHIN A CITY WITH A POPULATION OF
44 ONE MILLION OR MORE FOR WHICH:

45 (I) THE RATIO OF THE FULL VALUE PROPERTY WEALTH, AS DETERMINED BY THE
46 COMPTROLLER FOR THE YEAR NINETEEN HUNDRED NINETY, PER RESIDENT TO THE
47 STATEWIDE AVERAGE FULL VALUE PROPERTY WEALTH PER RESIDENT; AND

48 (II) THE RATIO OF THE INCOME PER RESIDENT; AS SHOWN IN THE NINETEEN
49 HUNDRED NINETY CENSUS TO THE STATEWIDE AVERAGE INCOME PER RESIDENT; ARE
50 EACH FIFTY-FIVE PERCENT OR LESS OF THE STATEWIDE AVERAGE; OR

51 (C) AN AREA WHICH WAS DESIGNATED AN EMPIRE ZONE PURSUANT TO ARTICLE
52 EIGHTEEN-B OF THE GENERAL MUNICIPAL LAW.

53 11. "DARK FIBER" MEANS FIBER OPTIC CABLE THAT IS NOT LIGHTED BY LASERS
54 OR OTHER ELECTRONIC EQUIPMENT.

55 12. "COMPTROLLER" MEANS THE COMPTROLLER OF THE STATE OF NEW YORK.

1 13. "BOARD" MEANS THE BOARD OF DIRECTORS CREATED UNDER SECTION FORTY-
2 ONE HUNDRED FOUR OF THIS ARTICLE.

3 14. "FUND" MEANS THE BROADBAND AND ADVANCED COMMUNICATIONS DEVELOPMENT
4 FUND CREATED UNDER SECTION FORTY-ONE HUNDRED THIRTEEN OF THIS ARTICLE.

5 15. "BROADBAND COUNCIL" MEANS THE BROADBAND DEVELOPMENT AND DEPLOYMENT
6 COUNCIL AS CREATED UNDER SECTION FORTY-ONE HUNDRED FIVE OF THIS ARTICLE.

7 16. "CURRENT GENERATION BROADBAND SERVICE" MEANS THE TRANSMISSION OF
8 SIGNALS AT A RATE OF AT LEAST ONE MILLION FIVE HUNDRED THOUSAND BITS PER
9 SECOND TO THE SUBSCRIBER AND AT LEAST TWO HUNDRED THOUSAND BITS PER
10 SECOND FROM THE SUBSCRIBER.

11 17. "NEXT GENERATION BROADBAND SERVICE" MEANS THE TRANSMISSION OF
12 SIGNALS AT A RATE OF AT LEAST TWENTY-TWO MILLION BITS PER SECOND TO THE
13 SUBSCRIBER AND AT LEAST TEN MILLION BITS PER SECOND FROM THE SUBSCRIBER.

14 18. "QUALIFIED EQUIPMENT" MEANS EQUIPMENT CAPABLE OF PROVIDING CURRENT
15 GENERATION BROADBAND SERVICES OR NEXT GENERATION BROADBAND SERVICES AT
16 ANY TIME TO EACH SUBSCRIBER WHO IS UTILIZING SUCH SERVICES.

17 19. "QUALIFIED EXPENDITURE" MEANS ANY AMOUNT CHARGEABLE TO THE CAPITAL
18 ACCOUNT WITH RESPECT TO THE PURCHASE AND INSTALLATION OF QUALIFIED
19 EQUIPMENT, INCLUDING ANY UPGRADES THERETO, FOR WHICH DEPRECIATION IS
20 ALLOWABLE UNDER SECTION 168 OF THE INTERNAL REVENUE CODE.

21 20. "UNDERSERVED SUBSCRIBER" MEANS A RETAIL CONSUMER RESIDING IN A
22 DWELLING LOCATED IN AN UNSERVED OR UNDERSERVED AREA.

23 21. "UNDERSERVED STRUCTURE" MEANS A MULTI-FAMILY HOUSING UNIT OR A
24 MULTIPLE-DWELLING HOUSING UNIT LOCATED IN AN UNSERVED OR UNDERSERVED
25 AREA.

26 S 4103. POWERS OF THE AUTHORITY. 1. THE GENERAL POWERS OF THE AUTHORI-
27 TY UNDER THIS ARTICLE INCLUDE ALL THOSE NECESSARY TO CARRY OUT AND
28 EFFECTUATE THE PURPOSES OF THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO,
29 THE FOLLOWING:

30 (A) TO INVEST ANY MONEY OF THE AUTHORITY AT THE AUTHORITY'S
31 DISCRETION, IN ANY OBLIGATIONS DETERMINED PROPER BY THE AUTHORITY, AND
32 TO NAME AND USE DEPOSITORIES FOR THE AUTHORITY'S MONEY;

33 (B) TO RECEIVE AND DISTRIBUTE FEDERAL, STATE OR LOCAL FUNDING, INCLUD-
34 ING GRANTS, LOANS, AND APPROPRIATIONS;

35 (C) TO MAKE EXPENDITURES NECESSARY TO CARRY OUT THE AUTHORITY'S DUTIES
36 UNDER THIS ARTICLE, INCLUDING PAYING THE AUTHORITY'S OPERATING EXPENSES;

37 (D) TO SUE AND BE SUED, IMPEAD AND BE IMPEADED, COMPLAIN AND DEFEND
38 IN ALL COURTS;

39 (E) TO ADOPT, USE AND ALTER AT WILL A CORPORATE SEAL;

40 (F) TO ACQUIRE, PURCHASE, HOLD, USE, LEASE OR OTHERWISE DISPOSE OF ANY
41 PROJECT AND PROPERTY, REAL, PERSONAL OR MIXED, TANGIBLE OR INTANGIBLE,
42 OR ANY INTEREST THEREIN NECESSARY OR DESIRABLE FOR CARRYING OUT THE
43 PURPOSES OF THE AUTHORITY, AND, WITHOUT LIMITATION OF THE FOREGOING, TO
44 LEASE AS LESSEE, ANY PROJECT AND ANY PROPERTY, REAL, PERSONAL OR MIXED,
45 OR ANY INTEREST THEREIN, AT SUCH ANNUAL RENTAL AND ON SUCH TERMS AND
46 CONDITIONS AS MAY BE DETERMINED BY THE BOARD AND TO LEASE AS LESSOR TO
47 ANY PERSON, ANY PROJECT AND ANY PROPERTY, REAL, PERSONAL OR MIXED,
48 TANGIBLE OR INTANGIBLE, OR ANY INTEREST THEREIN, AT ANY TIME ACQUIRED BY
49 THE AUTHORITY, WHETHER WHOLLY OR PARTIALLY COMPLETED, AT SUCH ANNUAL
50 RENTAL AND ON SUCH TERMS AND CONDITIONS AS MAY BE DETERMINED BY THE
51 BOARD, AND TO SELL, TRANSFER OR CONVEY ANY PROPERTY, REAL, PERSONAL OR
52 MIXED, TANGIBLE OR INTANGIBLE OR ANY INTEREST THEREIN, AT ANY TIME
53 ACQUIRED OR HELD BY THE AUTHORITY ON SUCH TERMS AND CONDITIONS AS MAY BE
54 DETERMINED BY THE BOARD OF THE AUTHORITY;

55 (G) TO PLAN, DEVELOP, UNDERTAKE, CARRY OUT, CONSTRUCT, IMPROVE, REHA-
56 BILITATE, REPAIR, FURNISH, MAINTAIN, AND OPERATE PROJECTS;

1 (H) TO ADOPT BYLAWS FOR THE MANAGEMENT AND REGULATION OF ITS AFFAIRS
2 CONSISTENT WITH THIS CHAPTER;

3 (I) TO ESTABLISH AND MAINTAIN SATELLITE OFFICES WITHIN NEW YORK;

4 (J) TO FIX, ALTER, CHARGE, AND COLLECT RATES, RENTALS, AND OTHER
5 CHARGES FOR THE USE OF PROJECTS OF, OR FOR THE SALE OF PRODUCTS OF OR
6 FOR THE SERVICES RENDERED BY, THE AUTHORITY, AT RATES TO BE DETERMINED
7 BY IT FOR THE PURPOSE OF PROVIDING FOR THE PAYMENT OF THE EXPENSES OF
8 THE AUTHORITY, THE PLANNING, DEVELOPMENT, CONSTRUCTION, IMPROVEMENT,
9 REHABILITATION, REPAIR, FURNISHING, MAINTENANCE, AND OPERATION OF ITS
10 PROJECTS AND PROPERTIES, THE PAYMENT OF THE COSTS ACCOMPLISHING ITS
11 TASKS;

12 (K) THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON ITS OBLIGATIONS,
13 AND TO FULFILL THE TERMS AND PROVISIONS OF ANY AGREEMENTS MADE WITH THE
14 PURCHASERS OR HOLDERS OF ANY SUCH OBLIGATIONS;

15 (L) TO BORROW MONEY, MAKE AND ISSUE BONDS, AND TO SECURE THE PAYMENT
16 OF ALL BONDS, OR ANY PART THEREOF, BY PLEDGE OR DEED OF TRUST OF ALL OR
17 ANY OF ITS REVENUES, RENTALS, AND RECEIPTS OR OF ANY PROJECT OR PROPER-
18 TY, REAL, PERSONAL OR MIXED, TANGIBLE OR INTANGIBLE, OR ANY INTEREST
19 THEREIN, AND TO MAKE AGREEMENTS WITH THE PURCHASERS OR HOLDERS OF SUCH
20 BONDS OR WITH OTHERS IN CONNECTION WITH ANY SUCH BONDS, WHETHER ISSUED
21 OR TO BE ISSUED, AS THE AUTHORITY DEEMS ADVISABLE, AND IN GENERAL TO
22 PROVIDE FOR THE SECURITY FOR THE BONDS AND THE RIGHTS OF HOLDERS THERE-
23 OF;

24 (M) TO MAKE AND ENTER INTO ALL CONTRACTS AND AGREEMENTS NECESSARY OR
25 INCIDENTAL TO THE PERFORMANCE OF ITS DUTIES, THE FURTHERANCE OF ITS
26 PURPOSES AND THE EXECUTION TO ITS POWERS UNDER THIS ARTICLE, INCLUDING
27 AGREEMENTS WITH ANY PERSON OR FEDERAL AGENCY;

28 (N) TO EMPLOY, IN ITS DISCRETION, CONSULTANTS, ATTORNEYS, ARCHITECTS,
29 ENGINEERS, ACCOUNTANTS, FINANCIAL EXPERTS, INVESTMENT BANKERS, SUPER-
30 INTENDENTS, MANAGERS AND SUCH OTHER EMPLOYEES AND AGENTS AS MAY BE
31 NECESSARY, AND TO FIX THEIR COMPENSATION TO BE PAYABLE FROM FUNDS MADE
32 AVAILABLE TO THE AUTHORITY;

33 (O) TO PLEDGE OR OTHERWISE ENCUMBER ALL OR ANY OF THE REVENUES OR
34 RECEIPTS OF THE AUTHORITY AS SECURITY FOR ALL OR ANY OF THE OBLIGATIONS
35 OF THE AUTHORITY; AND

36 (P) TO DO ALL ACTS AND THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
37 POWERS GRANTED TO IT BY LAW.

38 2. THE PHYSICAL ACCESS POWERS OF THE AUTHORITY UNDER THIS ARTICLE
39 INCLUDE ALL THOSE NECESSARY TO CARRY OUT AND EFFECTUATE THE PURPOSES OF
40 THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

41 (A) TO MAKE LOANS OR GRANTS TO BROADBAND DEVELOPERS AND BROADBAND
42 OPERATORS, AND DEVELOPERS AND OPERATORS OF ADVANCED COMMUNICATIONS, THAT
43 WILL ACQUIRE, CONSTRUCT, MAINTAIN, AND OPERATE ALL OR PART OF THE BROAD-
44 BAND INFRASTRUCTURE SERVING UNSERVED, UNDERSERVED AND DISTRESSED AREAS;

45 (B) TO SET CONSTRUCTION, OPERATION, AND FINANCING STANDARDS FOR THE
46 BROADBAND INFRASTRUCTURE IN CONNECTION WITH AUTHORITY FINANCING AND TO
47 PROVIDE FOR INSPECTIONS TO DETERMINE COMPLIANCE WITH THOSE STANDARDS;

48 (C) TO INVESTIGATE, EVALUATE, AND ACCESS THE CURRENT BROADBAND INFRA-
49 STRUCTURE AND THE FUTURE BROADBAND INFRASTRUCTURE NEEDS OF THE STATE;

50 (D) TO TAKE ACTIONS REASONABLY CALCULATED TO RESULT IN INFRASTRUCTURE
51 CONSTRUCTION, ENHANCEMENT, EXCHANGES, EXPANSION, LEASES, SWAPS AND OTHER
52 AGREEMENTS OR ARRANGEMENTS GIVING RISE TO SERVICE OR COMPETITIVE SERVICE
53 TO UNDERSERVED STRUCTURES AND UNDERSERVED SUBSCRIBERS; AND

54 (E) TO DO ALL ACTS AND THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
55 POWERS GRANTED TO IT BY LAW.

1 3. THE SOCIAL ACCESS POWERS OF THE AUTHORITY UNDER THIS ARTICLE
2 INCLUDE ALL THOSE NECESSARY TO CARRY OUT AND EFFECTUATE THE PURPOSES OF
3 THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

4 (A) TO PROVIDE OPERATING ASSISTANCE TO MAKE BROADBAND SERVICES MORE
5 AFFORDABLE TO BROADBAND DEVELOPERS, BROADBAND OPERATORS, AND BROADBAND
6 CUSTOMERS IN UNSERVED, UNDERSERVED AND DISTRESSED AREAS, IN CONJUNCTION
7 WITH BROADBAND INFRASTRUCTURE FINANCED BY THE AUTHORITY;

8 (B) TO ENCOURAGE AND PARTICIPATE IN AGGREGATION STRATEGIES FOR THE
9 BROADBAND SERVICES OF ALL PUBLIC ENTITIES AND NONPROFIT CORPORATIONS IN
10 THE STATE TO MAXIMIZE THE INTERCONNECTIVITY AND EFFICIENCIES OF THE
11 BROADBAND INFRASTRUCTURE;

12 (C) TO RECEIVE AND ACCEPT FROM ANY FEDERAL OR PRIVATE AGENCY, FOUNDA-
13 TION, CORPORATION, ASSOCIATION OR PERSON GRANTS TO BE EXPENDED IN ACCOM-
14 PLISHING THE OBJECTIVES OF THE AUTHORITY, AND TO RECEIVE AND ACCEPT FROM
15 NEW YORK OR ANY STATE, AND ANY MUNICIPALITY, COUNTY OR OTHER POLITICAL
16 SUBDIVISION THEREOF AND FROM ANY OTHER SOURCE, AID OR CONTRIBUTIONS OF
17 EITHER MONEY, PROPERTY, OR OTHER THINGS OF VALUE, TO BE HELD, USED AND
18 APPLIED ONLY FOR THE PURPOSES FOR WHICH SUCH GRANTS AND CONTRIBUTIONS
19 MAY BE MADE;

20 (D) TO RENDER ADVICE AND ASSISTANCE, AND TO PROVIDE SERVICES, TO
21 INSTITUTIONS OF HIGHER EDUCATION AND TO OTHER PERSONS PROVIDING SERVICES
22 OR FACILITIES FOR SCIENTIFIC AND TECHNOLOGICAL RESEARCH OR GRADUATE
23 EDUCATION, FOCUSED UPON DEVELOPMENT OF ADVANCED COMMUNICATIONS TECHNOLO-
24 GIES, PROVIDED THAT CREDIT TOWARDS A DEGREE, CERTIFICATE OR DIPLOMA
25 SHALL BE GRANTED ONLY IF SUCH EDUCATION IS PROVIDED IN CONJUNCTION WITH
26 AN INSTITUTION OF HIGHER EDUCATION AUTHORIZED TO OPERATE IN NEW YORK;

27 (E) TO TAKE SUCH OTHER ACTIONS IT DEEMS NECESSARY OR CONVENIENT, THAT
28 ARE REASONABLY CALCULATED TO RESULT IN ENHANCED, INITIAL OR COMPETITIVE
29 SOCIAL ACCESS TO GENERALLY AVAILABLE RETAIL BROADBAND SERVICES OF
30 ADEQUATE QUALITY, AT AFFORDABLE PRICES, FOR UNDERSERVED STRUCTURES AND
31 UNDERSERVED SUBSCRIBERS; AND

32 (F) TO DO ALL ACTS AND THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE
33 POWERS GRANTED TO IT BY LAW.

34 S 4104. BOARD OF DIRECTORS. 1. THE AUTHORITY SHALL BE GOVERNED BY A
35 BOARD OF DIRECTORS CONSISTING OF SEVENTEEN MEMBERS, INCLUDING: THE
36 COMMISSIONERS OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT, THE EMPIRE
37 STATE DEVELOPMENT CORPORATION, THE PUBLIC SERVICE COMMISSION AND THE
38 STATE OFFICE FOR TECHNOLOGY, OR THEIR DESIGNEES, THE GOVERNOR, SENATE
39 MAJORITY LEADER, SPEAKER OF THE ASSEMBLY, AND THE COMPTROLLER OR THEIR
40 DESIGNEES. TWO MEMBERS OF THE BOARD SHALL BE PROPOSED BY THE RESPECTIVE
41 UNIONS OF THE WIRELINE AND WIRELESS TELECOMMUNICATIONS INDUSTRIES OF NEW
42 YORK. THE REMAINING MEMBERS OF THE BOARD SHALL BE APPOINTED BY THE
43 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE, FROM A LIST OF INDI-
44 VIDUALS NOMINATED BY THE PRINCIPAL ESTABLISHED INDUSTRY GROUPS, TECHNI-
45 CAL COUNSELS, OR ACADEMIC PROFESSIONAL GROUPS OF NEW YORK. THE APPOINT-
46 EES SHALL BE THE FOLLOWING: ONE MEMBER FROM EACH TELECOMMUNICATIONS
47 INDUSTRY GROUPING, TO BE NOMINATED BY THE NEW YORK-BASED WIRELINE TELE-
48 PHONE INDUSTRY, THE NEW YORK-BASED WIRELESS CELLULAR TELEPHONE INDUSTRY,
49 AND THE NEW YORK-BASED CABLE TELEVISION/BROADBAND INDUSTRY AND WIRELESS
50 INTERNET PROVIDER INDUSTRY; THE PRESIDENT OF THE STATE UNIVERSITY SYSTEM
51 OF NEW YORK, TWO PRESIDENTS OF MAJOR NEW YORK RESEARCH UNIVERSITIES, ONE
52 OF WHOM SHALL REPRESENT PRIVATE RESEARCH UNIVERSITIES AND ONE OF WHOM
53 SHALL REPRESENT PUBLIC RESEARCH UNIVERSITIES; AND ONE MEMBER WHO SHALL
54 BE NOMINATED BY NEW YORK'S FINANCIAL SERVICES COMMUNITY.

55 2. THE GOVERNMENT MEMBERS SHALL SERVE ON THE BOARD FOR TERMS COINCI-
56 DENT WITH THEIR TERMS OF OFFICE. THE INITIAL TERM OF THE NON-GOVERNMEN-

1 TAL MEMBERS SHALL EXPIRE ON DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN,
2 AND ALL SUBSEQUENT NONGOVERNMENTAL MEMBER TERMS SHALL BE COINCIDENT WITH
3 THE TERM OF THE GOVERNOR WHO APPOINTED SUCH MEMBERS. VACANCIES IN THE
4 MEMBERSHIP OF THE BOARD SHALL BE FILLED BY APPOINTMENT BY THE GOVERNOR
5 FOR THE UNEXPIRED PORTION OF THE TERM. NO NONGOVERNMENTAL MEMBER OF THE
6 BOARD SHALL BE ELIGIBLE TO SERVE FOR MORE THAN TWO SUCCESSIVE TERMS,
7 PROVIDED HOWEVER THAT AFTER THE EXPIRATION OF A FOUR YEAR TERM, SUCH
8 MEMBERS MAY BE APPOINTED TO AND SERVE UP TO TWO ADDITIONAL TERMS.
9 MEMBERS OF THE BOARD SHALL BE SUBJECT TO THE PUBLIC OFFICERS LAW, AND
10 SHALL SERVE AT THE PLEASURE OF THE GOVERNOR. IMMEDIATELY AFTER APPOINT-
11 MENT, THE MEMBERS OF THE BOARD SHALL ENTER UPON THE PERFORMANCE OF THEIR
12 DUTIES.

13 3. THE BOARD SHALL ELECT ANNUALLY FROM AMONG ITS MEMBERS A CHAIRPERSON
14 AND VICE-CHAIRPERSON. THE BOARD SHALL ALSO ANNUALLY ELECT A SECRETARY,
15 WHO NEED NOT BE A BOARD MEMBER, AND MAY ALSO ELECT SUCH OTHER SUBORDI-
16 NATE OFFICERS WHO NEED NOT BE MEMBERS OF THE BOARD AS IT DEEMS NECESSARY
17 AND PROPER. THE CHAIRPERSON, OR IN HIS OR HER ABSENCE, THE VICE-CHAIR-
18 PERSON, SHALL PRESIDE OVER ALL MEETINGS OF THE BOARD. IN THE ABSENCE OF
19 BOTH THE CHAIRPERSON AND VICE-CHAIRPERSON, THE BOARD SHALL APPOINT A
20 CHAIRPERSON PRO TEMPORE, WHO SHALL PRESIDE AT SUCH MEETINGS.

21 4. THE BOARD SHALL EMPLOY A PRESIDENT OF THE AUTHORITY, WHO SHALL
22 SERVE AT THE PLEASURE OF THE BOARD, TO DIRECT THE DAY-TO-DAY OPERATIONS
23 AND ACTIVITIES OF THE AUTHORITY AND CARRY OUT SUCH DUTIES AND POWERS AS
24 MAY BE CONFERRED UPON HIM OR HER BY THE BOARD. THE PRESIDENT AND ALL
25 EMPLOYEES OF THE AUTHORITY SHALL BE COMPENSATED IN THE MANNER PROVIDED
26 BY THE BOARD, PROVIDED HOWEVER THAT SUCH COMPENSATION SHALL NOT EXCEED
27 THE MEDIAN SALARIES OF EMPLOYEES IN EQUIVALENT TITLES OF NEW YORK "STATE
28 AUTHORITIES" AS DEFINED IN THIS CHAPTER.

29 S 4105. BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL. 1. THE BOARD
30 SHALL ESTABLISH, WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS
31 SECTION, A SEVENTEEN MEMBER TECHNICAL ADVISORY COMMITTEE FROM REPRESENT-
32 ATIVES RECOMMENDED BY TECHNOLOGY COUNCILS, INDUSTRY AND BUSINESS ASSO-
33 CIATIONS, AND COLLEGE AND UNIVERSITY PRESIDENTS, TO BE KNOWN AS THE
34 BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL. FIVE MEMBERS SHALL HAVE
35 KNOWLEDGE, SKILLS AND EXPERTISE IN THE NEEDS OF INDUSTRY, FIVE SHALL
36 HAVE KNOWLEDGE, SKILLS AND EXPERTISE IN SPECIFIC TELECOMMUNICATIONS
37 TECHNOLOGY AREAS, AND TWO SHALL BE COMMUNITY REPRESENTATIVES FROM
38 UNSERVED AND/OR UNDERSERVED AREAS. THE CHIEF TECHNICAL OFFICERS FOR THE
39 PUBLIC SERVICE COMMISSION, THE STATE OFFICE FOR TECHNOLOGY, THE STATE
40 OFFICE FOR EMERGENCY MANAGEMENT AND THE STATE OFFICE OF SCIENCE, TECH-
41 NOLOGY AND ACADEMIC RESEARCH, AND THE CHIEF INFORMATION OFFICER FOR THE
42 STATE OF NEW YORK, SHALL ALSO SERVE ON THIS COMMITTEE.

43 2. (A) WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, THE
44 BROADBAND COUNCIL SHALL CREATE, COORDINATE, OR LIAISE WITH EXISTING,
45 MUNICIPAL AND/OR COUNTY-LEVEL SOCIAL ACCESS COUNCILS TO STUDY, AND
46 SUBSEQUENTLY REPORT TO THE AUTHORITY UPON: (I) THE LOCATION, SIZE AND
47 POPULATION OF UNSERVED, UNDERSERVED AND DISTRESSED AREAS WITHIN THE
48 RESPECTIVE MUNICIPALITIES AND COUNTIES; (II) A PROPOSED LIST OF SOCIAL
49 ACCESS PROJECTS FOR THE MUNICIPALITIES AND COUNTIES; (III) THE PRESENCE
50 OF NON-GOVERNMENTAL ORGANIZATIONS AND FEDERAL 501C3 ORGANIZATIONS THAT
51 COULD WORK COOPERATIVELY WITH THE AUTHORITY ON SOCIAL ACCESS PROJECTS;
52 (IV) SUCH OTHER MATTERS AS THE BROADBAND COUNCIL AND LOCAL BROADBAND
53 DEVELOPMENT COUNCILS BELIEVE NECESSARY TO EFFECTUATING THE MISSION OF
54 THE AUTHORITY.

55 (B) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, THE
56 BROADBAND COUNCIL SHALL STUDY AND REPORT TO THE AUTHORITY UPON:

1 (I) THE AVAILABILITY OF ANY EXISTING FEDERAL, STATE AND LOCAL FUNDS
2 THAT CAN BE USED OR RE-PURPOSED TO FUND BROADBAND DEVELOPMENT AND
3 PROMOTE UNIVERSAL ACCESS TO BROADBAND AND ADVANCED COMMUNICATIONS
4 SERVICES IN UNSERVED, UNDERSERVED AND DISTRESSED AREAS;

5 (II) COMMERCIALY REASONABLE INVESTMENT BENCHMARKS THAT IT BELIEVES
6 ARE NECESSARY TO DETERMINE BETWEEN REASONABLY EQUALLY VALUABLE AND
7 IMPERATIVE BROADBAND DEVELOPMENT PROJECTS;

8 (III) AN APPROPRIATE SET OF METRICS BY WHICH TO DETERMINE THE QUALITY
9 OF A BROADBAND BUILDOUT PROJECT, AND WHETHER SUCH BUILDOUT WAS BEING
10 COMPLETED WITHIN THE TIME SPAN UPON WHICH THE AUTHORITY CONDITIONED THE
11 GRANT OF ANY FUNDS TOWARD SUCH BUILDOUT;

12 (IV) THE AVAILABILITY, DESIRABILITY AND UTILITY OF A SET OF STANDARD-
13 IZED METRICS FOR SERVICE QUALITY, SPEED, AND RELIABILITY THAT SHALL BE
14 APPLIED TO THE NETWORKS BUILT WITH FUNDS FROM THE AUTHORITY; AND

15 (V) THE AVAILABILITY OF SURPLUS COMPUTERS AND OTHER BROADBAND TELECOM-
16 MUNICATIONS EQUIPMENT IN THE INVENTORIES OF STATE AND LOCAL AUTHORITIES
17 THAT MIGHT BE DONATED TO THE AUTHORITY FOR USE IN ENHANCING PHYSICAL AND
18 SOCIAL ACCESS TO BROADBAND IN THE STATE.

19 3. THE COUNCIL SHALL ACT AS LIAISON, AND BINDING MEDIATOR WHEN
20 REQUESTED, BETWEEN ANY DEPLOYMENT PROJECTS AND OWNERS OF RIGHTS-OF-WAY,
21 EASEMENTS OR INFRASTRUCTURE NECESSARY TO PROMOTE OR ESTABLISH BROADBAND
22 SERVICE IN UNSERVED, UNDERSERVED AND DISTRESSED AREAS.

23 4. THE COUNCIL SHALL DETERMINE AND RECOMMEND TO THE BOARD PROJECTS FOR
24 THE EXPENDITURE OF FUNDS FROM THE FUND, WITH SPECIAL ATTENTION TO
25 PROJECTS USING MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES AS CONTRAC-
26 TORS OR SUB-CONTRACTORS, AND TO PROJECTS PROVIDING PRIVATE SECTOR MATCH-
27 ING FUNDING AT RATIOS OF THREE TO ONE PRIVATE TO PUBLIC FUNDING OR
28 GREATER.

29 5. THE COUNCIL SHALL RECOMMEND TO THE BOARD, ON AN ANNUAL BASIS,
30 LEGISLATION THAT IT DETERMINES WOULD BE REASONABLY NECESSARY TO FURTHER
31 PROMOTE BROADBAND DEVELOPMENT, ENHANCE ECONOMIC DEVELOPMENT ARISING FROM
32 SUCH BROADBAND DEVELOPMENT, AND PROTECT AND ENHANCE ACCESS OF CONSUMERS
33 TO E911 AND OTHER PUBLIC SAFETY SERVICES AND ENTITIES BY METHOD OF
34 BROADBAND AND ADVANCED COMMUNICATIONS SERVICES.

35 6. (A) A MEMBER OF THE BOARD OR OFFICER, EMPLOYEE, OR AGENT OF THE
36 AUTHORITY SHALL DISCHARGE THE DUTIES OF HIS OR HER POSITION IN A NONPAR-
37 TISAN MANNER, WITH GOOD FAITH, AND WITH THAT DEGREE OF DILIGENCE, CARE
38 AND SKILL THAT AN ORDINARY PRUDENT PERSON WOULD EXERCISE UNDER SIMILAR
39 CIRCUMSTANCES IN A LIKE POSITION. IN DISCHARGING THE DUTIES OF HIS OR
40 HER POSITION, A MEMBER OF THE BOARD OR AN OFFICER, EMPLOYEE, OR AGENT OF
41 THE AUTHORITY, WHEN ACTING IN GOOD FAITH, MAY RELY UPON THE OPINION OF
42 COUNSEL FOR THE AUTHORITY, UPON THE REPORT OF AN INDEPENDENT APPRAISER
43 SELECTED WITH REASONABLE CARE BY THE BOARD, OR UPON FINANCIAL STATEMENTS
44 OF THE AUTHORITY REPRESENTED TO THE MEMBER OF THE BOARD OR OFFICER,
45 EMPLOYEE, OR AGENT OF THE AUTHORITY TO BE CORRECT BY THE PRESIDENT OR
46 THE OFFICER OF THE AUTHORITY HAVING CHARGE OF ITS BOOKS OR ACCOUNT, OR
47 STATED IN A WRITTEN REPORT BY A CERTIFIED PUBLIC ACCOUNTANT OR FIRM OF
48 CERTIFIED PUBLIC ACCOUNTANTS TO FAIRLY REFLECT THE FINANCIAL CONDITION
49 OF THE AUTHORITY.

50 (B) A MEMBER OF THE BROADBAND DEVELOPMENT COUNCIL SHALL DISCHARGE THE
51 DUTIES OF HIS OR HER POSITION IN A NONPARTISAN MANNER, WITH GOOD FAITH,
52 AND WITH THAT DEGREE OF DILIGENCE, CARE AND SKILL THAT AN ORDINARY
53 PRUDENT PERSON WOULD EXERCISE UNDER SIMILAR CIRCUMSTANCES IN A LIKE
54 POSITION.

55 (C) A MEMBER OF A SOCIAL ACCESS COUNCIL SHALL DISCHARGE THE DUTIES OF
56 HIS OR HER POSITION IN A NONPARTISAN MANNER, WITH GOOD FAITH, AND WITH

1 THAT DEGREE OF DILIGENCE, CARE AND SKILL THAT AN ORDINARY PRUDENT PERSON
2 WOULD EXERCISE UNDER SIMILAR CIRCUMSTANCES IN A LIKE POSITION.

3 S 4106. APPLICATIONS FOR BROADBAND DEPLOYMENT FINANCING; RESPONSIBIL-
4 ITIES OF THE APPLICANT TO PROVIDE SAFE, RELIABLE AND AFFORDABLE SERVICE.
5 IN ADDITION TO RULES PROMULGATED BY THE AUTHORITY AS WELL AS THE OTHER
6 REQUIREMENTS ESTABLISHED IN THIS ARTICLE, AS PART OF AN APPLICATION FOR
7 FINANCING UNDER THIS CHAPTER, A BROADBAND DEVELOPER OR BROADBAND OPERA-
8 TOR MUST FILE WITH THE AUTHORITY:

9 1. A PARTICIPATION PLAN FOR MINORITY AND WOMAN-OWNED BUSINESSES;

10 2. A COMMUNITY WIDE OUTREACH PLAN TO EDUCATE THE PUBLIC WITH RESPECT
11 TO THE AVAILABILITY OF BROADBAND SERVICES;

12 3. A CONSTRUCTION AND MAINTENANCE PLAN THAT SHALL DETAIL THE CAPACITY
13 OF ANY BROADBAND NETWORK OR NETWORKS BUILT WITH FUNDING FROM THE AUTHOR-
14 ITY, AND WHETHER SUCH NETWORKS SHALL MAINTAIN FULL UPLOAD AND DOWNLOAD
15 SPEEDS WHEN SUBSCRIBED TO ONE HUNDRED PERCENT OF CAPACITY;

16 4. A DETAILED PLAN SHOWING HOW SUCH BUILDOUT FUNDED BY THE AUTHORITY
17 SHALL ADDRESS OR EXCEED THE CURRENT AGGREGATE DEMAND FOR BROADBAND
18 SERVICES IN THE AREA OF PROPOSED BUILDOUT AS DETERMINED BY THE AUTHORI-
19 TY, COUNCIL, CYBER SECURITY AND CRITICAL INFRASTRUCTURE COORDINATION
20 OFFICE ("CSCIC") AND PUBLIC SERVICE COMMISSION'S MAPPING AND DEMAND
21 ASSESSMENT ANALYSES AND REPORTS;

22 5. SUCH OTHER REQUIREMENTS AS MAY BE RECOMMENDED TO THE AUTHORITY BY
23 THE COUNCIL AND THE PUBLIC SERVICE COMMISSION;

24 6. A PLAN FOR FOLLOWING THE PRINCIPLES OF NEUTRAL NETWORKS AS REQUIRED
25 IN SECTION FORTY-ONE HUNDRED THIRTEEN OF THIS ARTICLE; AND

26 7. A PLAN CONTAINING DETAILED METRICS SETTING FORTH TIME TO COMPLETION
27 FOR EACH STAGE OF ITS PROPOSED BUILDOUT, THE SPEEDS TO BE OFFERED ON AND
28 ACROSS ITS NETWORK, AND SUCH OTHER METRICS AS THE BROADBAND COUNCIL OR
29 BOARD MAY PROPOSE. THE AUTHORITY MAY NOT APPROVE AN APPLICATION UNLESS A
30 PLAN IS SUBMITTED UNDER THIS SECTION AND UNLESS THE REQUIREMENTS OF THIS
31 SECTION ARE MET.

32 S 4107. BONDS AND NOTES OF THE AUTHORITY. 1. THE AUTHORITY SHALL HAVE
33 THE POWER AND IS HEREBY AUTHORIZED FROM TIME TO TIME TO ISSUE NEGOTIABLE
34 BONDS OR NOTES FOR ANY OF ITS CORPORATE PURPOSES FOR UP TO ONE HUNDRED
35 FIFTY MILLION DOLLARS ANNUALLY FOR FIVE YEARS TO DO ALL OF THE FOLLOW-
36 ING:

37 (A) PAY THE DEVELOPMENT COSTS ASSOCIATED WITH ACQUIRING, LEASING,
38 CONSTRUCTING, MAINTAINING, AND OPERATING THE BROADBAND INFRASTRUCTURE,
39 IN UNSERVED, UNDERSERVED, AND DISTRESSED AREAS;

40 (B) MAKE LOANS TO PERSONS FOR DEVELOPMENT COSTS;

41 (C) MAKE LOANS TO PERSONS TO MAKE PURCHASES RELATED TO THE BROADBAND
42 INFRASTRUCTURE;

43 (D) PAY THE INTEREST ON BONDS AND NOTES OF THE AUTHORITY;

44 (E) ESTABLISH RESERVES TO SECURE THE BONDS AND NOTES OF THE AUTHORITY;
45 AND

46 (F) MAKE OTHER EXPENDITURES NECESSARY TO CARRY OUT THE AUTHORITY'S
47 DUTIES UNDER THIS ARTICLE, INCLUDING THE PAYMENT OF THE AUTHORITY'S
48 OPERATING EXPENSES.

49 THE BONDS AND NOTES SHALL BE IN A FORM, BEAR INTEREST AT A RATE OR
50 RATES, BE IN THE DENOMINATIONS, CARRY REGISTRATION PRIVILEGES, BE PAYA-
51 BLE, AND BE SUBJECT TO THE TERMS OF REDEMPTION AS PROVIDED IN THE RESOL-
52 UTION DESCRIBED IN SUBDIVISION TWO OF THIS SECTION. THE BONDS AND NOTES
53 OF THE AUTHORITY MAY BE SOLD BY THE AUTHORITY AT PUBLIC OR PRIVATE SALES
54 AT PRICES AS THE AUTHORITY DETERMINES.

2. A RESOLUTION RELATING TO AUTHORIZING NOTES OR BONDS MAY CONTAIN ANY OF THE FOLLOWING PROVISIONS, WHICH SHALL BE A PART OF THE CONTRACT WITH THE HOLDERS OF THE NOTES OR BONDS:

(A) PLEDGING ALL OR ANY PART OF THE REVENUES OF THE AUTHORITY, AND ALL OR ANY PART OF THE MONEY RECEIVED IN PAYMENT OF LOANS AND INTEREST ON LOANS, AND OTHER MONEY RECEIVED OR TO BE RECEIVED TO SECURE THE PAYMENT OF THE NOTES OR BONDS;

(B) PLEDGING ALL OR ANY PART OF THE ASSETS OF THE AUTHORITY, INCLUDING MORTGAGES AND OBLIGATIONS OBTAINED BY THE AUTHORITY IN CONNECTION WITH ITS PROGRAMS, TO SECURE THE PAYMENT OF THE NOTES OR BONDS;

(C) PLEDGING ANY LOAN, GRANT, OR CONTRIBUTION FROM A GOVERNMENT ENTITY;

(D) THE USE AND DISPOSITION OF THE GROSS INCOME FROM CONTRACTS AND LEASES OF THE AUTHORITY;

(E) LIMITATIONS ON THE PURPOSE TO WHICH THE PROCEEDS OF SALE OF NOTES OR BONDS MAY BE APPLIED AND PLEDGING PROCEEDS TO SECURE THE PAYMENT OF THE NOTES OR BONDS;

(F) LIMITATIONS ON THE ISSUANCE OF ADDITIONAL NOTES OR BONDS, THE TERMS UPON WHICH ADDITIONAL NOTES OR BONDS MAY BE ISSUED AND SECURED, AND THE REFUNDING OF OUTSTANDING OR OTHER NOTES OR BONDS;

(G) THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT WITH NOTEHOLDERS OR BONDHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF NOTES OR BONDS THE HOLDERS OF WHICH SHALL CONSENT TO THE AMENDMENT OR ABROGATION, AND THE MANNER IN WHICH THE CONSENT IS TO BE GIVEN;

(H) VESTING IN A TRUSTEE OR TRUSTEES PROPERTY, RIGHTS, POWERS, AND DUTIES IN TRUST AS THE AUTHORITY MAY DETERMINE, WHICH MAY INCLUDE ANY OF THE RIGHTS, POWERS, AND DUTIES OF THE TRUSTEE APPOINTED BY THE BONDHOLDERS UNDER THIS ARTICLE AND LIMITING OR ABROGATING THE RIGHT OF THE BONDHOLDERS TO APPOINT A TRUSTEE UNDER THIS SECTION OR LIMITING THE RIGHTS, POWERS, AND DUTIES OF THE TRUSTEE.

3. NO MORE THAN FIFTY PERCENT OF ANY PAYMENTS TO THE AUTHORITY FOR USE OF RIGHTS-OF-WAY UNDER ITS CONTROL OR SUPERVISION SHALL BE DEEMED REVENUES OF THE AUTHORITY. UP TO SEVENTY-FIVE PERCENT OF MONIES ARISING FROM RIGHT-OF-WAY USE PAYMENTS MAY BE USED TO FUND SOCIAL ACCESS PROJECTS OF THE AUTHORITY, OR MAY BE CONTRIBUTED TO A STATE FUND ESTABLISHED TO GUARANTEE UNIVERSAL AND AFFORDABLE BROADBAND SERVICE TO, WITHOUT LIMITATION, UNDERSERVED SUBSCRIBERS AND STRUCTURES. ANY REMAINING UNEXPENDED MONIES ARISING FROM RIGHT-OF-WAY USE PAYMENTS MAY BE PLEDGED BY THE AUTHORITY TO SECURE THE PAYMENT OF NOTES AND BONDS.

S 4108. BONDS AND NOTES; PERSONAL LIABILITY. THE MEMBERS OF THE BOARD OR ANY PERSON EXECUTING THE NOTES OR BONDS UNDER THIS ARTICLE ARE NOT LIABLE PERSONALLY ON THE NOTES OR BONDS OR SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE.

S 4109. RIGHTS OF AUTHORITY TO FULFILL TERMS OF AGREEMENT NOT LIMITED, ALTERED, OR IMPAIRED. THIS STATE PLEDGES AND AGREES WITH THE HOLDERS OF ANY NOTES OR BONDS ISSUED UNDER THIS ARTICLE, THAT THE STATE WILL NOT LIMIT OR ALTER THE RIGHTS VESTED IN THE AUTHORITY TO FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH THE HOLDERS, OR IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF THE HOLDERS UNTIL THE NOTES OR BONDS, TOGETHER WITH EARNED INTEREST, WITH INTEREST ON ANY UNPAID INSTALLMENTS OF INTEREST, AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDING BY OR ON BEHALF OF THE HOLDERS, ARE FULLY MET AND DISCHARGED. THE AUTHORITY IS AUTHORIZED TO INCLUDE THIS PLEDGE AND AGREEMENT OF THE STATE IN ANY AGREEMENT WITH THE HOLDERS OF NOTES OR BONDS UNDER THIS ARTICLE.

1 S 4110. REMEDIES OF BONDHOLDERS AND NOTEHOLDERS. 1. IF THE AUTHORITY
2 DEFAULTS IN THE PAYMENT OF PRINCIPAL OR INTEREST OF ANY NOTES OR BONDS
3 WHEN DUE, WHETHER AT MATURITY OR UPON CALL FOR REDEMPTION, AND THE
4 DEFAULT CONTINUES FOR A PERIOD OF THIRTY DAYS, OR IF THE AUTHORITY FAILS
5 OR REFUSES TO COMPLY WITH THIS ARTICLE, OR DEFAULTS IN ANY AGREEMENT
6 MADE WITH THE HOLDERS OF ANY NOTES OR BONDS, THE HOLDERS OF TWENTY-FIVE
7 PERCENT IN AGGREGATE PRINCIPAL AMOUNT OF THE NOTES OR BONDS THEN
8 OUTSTANDING MAY APPLY TO THE COURT OF CLAIMS FOR THE APPOINTMENT OF A
9 TRUSTEE TO REPRESENT THE HOLDERS OF THE NOTES OR BONDS.

10 2. A TRUSTEE APPOINTED UNDER THIS ARTICLE MAY, AND UPON THE WRITTEN
11 REQUEST OF THE HOLDERS OF TWENTY-FIVE PERCENT IN AGGREGATE PRINCIPAL
12 AMOUNT OF THE NOTES OR BONDS SHALL, DO ANY OF THE FOLLOWING:

13 (A) ENFORCE ALL RIGHTS OF THE NOTEHOLDERS OR BONDHOLDERS, INCLUDING
14 THE RIGHT TO REQUIRE THE AUTHORITY TO PERFORM ITS DUTIES UNDER THIS
15 ARTICLE;

16 (B) BRING SUIT UPON THE NOTES OR BONDS;

17 (C) REQUIRE THE AUTHORITY TO ACCOUNT AS IF IT WERE THE TRUSTEE OF AN
18 EXPRESS TRUST FOR THE HOLDERS OF THE NOTES OR BONDS;

19 (D) ENJOIN ANY ACTS OR THINGS THAT MAY BE UNLAWFUL OR IN VIOLATION OF
20 THE RIGHTS OF THE HOLDERS OF THE NOTES OR BONDS; AND

21 (E) DECLARE ALL THE NOTES OR BONDS DUE AND PAYABLE.

22 3. BEFORE DECLARING THE PRINCIPAL OF NOTES OR BONDS DUE AND PAYABLE,
23 THE TRUSTEE SHALL FIRST GIVE THIRTY DAYS' NOTICE IN WRITING TO THE
24 GOVERNOR, TO THE AUTHORITY, TO THE COMPTROLLER AND TO THE ATTORNEY
25 GENERAL.

26 4. THE TRUSTEE HAS ALL OF THE POWERS NECESSARY OR APPROPRIATE FOR THE
27 GENERAL REPRESENTATION OF BONDHOLDERS OR NOTEHOLDERS IN THE ENFORCEMENT
28 AND PROTECTION OF THEIR RIGHTS.

29 5. AN ACTION UNDER THIS SECTION SHALL BE BROUGHT IN THE COURT OF
30 CLAIMS.

31 S 4111. GRANTS OR LOANS OF PUBLIC OR PRIVATE FUNDS OR IN-KIND MATERI-
32 AL. 1. THE AUTHORITY MAY ACCEPT, RECEIVE, RECEIPT FOR, DISBURSE, AND
33 EXPEND FEDERAL AND STATE MONEYS AND OTHER MONEYS, PUBLIC OR PRIVATE,
34 MADE AVAILABLE BY GRANT OR LOAN OR BOTH OR OTHERWISE, TO ACCOMPLISH, IN
35 WHOLE OR IN PART ANY OF THE PURPOSES OF THIS ARTICLE. ALL FEDERAL MONEYS
36 ACCEPTED UNDER THIS SECTION SHALL BE ACCEPTED AND EXPENDED BY THE
37 AUTHORITY UPON SUCH TERMS AND CONDITIONS AS ARE PRESCRIBED BY THE UNITED
38 STATES AND AS ARE CONSISTENT WITH STATE LAW; AND ALL STATE MONEYS
39 ACCEPTED UNDER THIS SECTION SHALL BE ACCEPTED AND EXPENDED BY THE
40 AUTHORITY UPON SUCH TERMS AND CONDITIONS AS ARE PRESCRIBED BY NEW YORK
41 STATE LAW.

42 2. THE AUTHORITY MAY ACCEPT, RECEIVE, RECEIPT FOR, GRANT OR LOAN
43 COMPUTERS AND OTHER TELECOMMUNICATIONS EQUIPMENT OR BROADBAND INFRAS-
44 TRUCTURE EQUIPMENT MADE AVAILABLE TO IT BY IN-KIND DONATION, GRANT OR
45 LOAN, TO ACCOMPLISH, IN WHOLE OR IN PART, ANY OF THE PURPOSES OF THIS
46 ARTICLE. ALL SUCH IN-KIND MATERIAL SHALL BE ACCEPTED AND LOANED OR
47 GRANTED BY THE AUTHORITY UPON SUCH TERMS AND CONDITIONS AS ARE
48 PRESCRIBED IN APPLICABLE SECTIONS OF THE LAW OF THE UNITED STATES AND AS
49 ARE CONSISTENT WITH STATE LAW.

50 S 4112. EXEMPTION FROM TAXES AND ASSESSMENTS. THE EXERCISE OF THE
51 POWERS GRANTED BY THIS ARTICLE SHALL BE IN ALL RESPECTS FOR THE BENEFIT
52 OF THE PEOPLE OF THIS STATE, FOR THE INCREASE OF THEIR COMMERCE AND
53 PROSPERITY, FOR THE IMPROVEMENT OF THEIR HEALTH AND LIVING CONDITIONS,
54 AND AS THE OPERATION AND MAINTENANCE OF PROJECTS BY THE AUTHORITY AND
55 THE UNDERTAKING OF ACTIVITIES IN FURTHERANCE OF THE PURPOSE OF THE
56 AUTHORITY CONSTITUTE THE PERFORMANCE OF ESSENTIAL GOVERNMENTAL FUNC-

1 TIONS, THE AUTHORITY SHALL NOT BE REQUIRED TO PAY ANY TAXES OR ASSESS-
2 MENTS UPON ANY PROJECT OR ANY PROPERTY ACQUIRED OR USED BY THE AUTHORITY
3 UNDER THE PROVISIONS OF THIS ARTICLE OR UPON THE INCOME THEREFROM,
4 INCLUDING SALES AND USE TAXES ON TANGIBLE PERSONAL PROPERTY USED IN THE
5 OPERATIONS OF THE AUTHORITY, AND ANY BONDS ISSUED UNDER THE PROVISIONS
6 OF THIS ARTICLE, THEIR TRANSFER AND THE INCOME THEREFROM (INCLUDING ANY
7 PROFIT MADE ON THE SALE THEREOF) SHALL AT ALL TIMES BE FREE FROM STATE
8 AND LOCAL TAXATION. THE EXEMPTION GRANTED IN THIS SECTION SHALL NOT BE
9 CONSTRUED TO EXTEND TO PERSONS CONDUCTING ON THE PREMISES OF A FACILITY
10 BUSINESSES FOR WHICH LOCAL OR STATE TAXES WOULD OTHERWISE BE REQUIRED.

11 S 4113. BROADBAND AND ADVANCED COMMUNICATIONS DEVELOPMENT FUND. 1.
12 THERE IS CREATED IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMIS-
13 SIONER OF THE DEPARTMENT OF TAXATION AND FINANCE A SPECIAL NONREVERTING,
14 PERMANENT ACCOUNT IN THE SPECIAL REVENUE FUND, TO BE CALLED THE ADVANCED
15 COMMUNICATIONS ASSISTANCE FUND, TO BE ADMINISTERED BY THE AUTHORITY.
16 MONEYS IN THE FUND SHALL BE USED SOLELY FOR THE PURPOSE OF HELPING
17 UNSERVED, UNDERSERVED AND DISTRESSED MUNICIPAL CORPORATIONS IN NEW YORK
18 STATE TAKE FULL ADVANTAGE OF BROADBAND AND ADVANCED COMMUNICATIONS
19 SERVICES. LOANS OR GRANTS FROM THE FUND SHALL BE USED TO EFFECTUATE
20 PHYSICAL AND SOCIAL ACCESS TO BROADBAND IN UNSERVED, UNDERSERVED AND
21 DISTRESSED LOCALITIES FOR:

22 (A) THE INTERNAL COMMUNICATION NEEDS OF SUCH LOCALITIES, WHICH MAY
23 INCLUDE BUT ARE NOT LIMITED TO FIBER-OPTIC AND WIRELESS COMMUNICATIONS
24 NETWORKS;

25 (B) HELP IN FINANCING THE COSTS OF PLANNING, DESIGNING, PURCHASING,
26 LEASING, INSTALLING, OR MAINTAINING DARK FIBER TO THE EXTENT PERMITTED,
27 SUBJECT HOWEVER TO ALL DUTIES AND RESTRICTIONS THAT EXIST WITHIN THIS
28 SECTION; OR

29 (C) TO ADVANCE THE PHYSICAL AND SOCIAL AVAILABILITY OF BROADBAND AND
30 OTHER ADVANCED COMMUNICATIONS SERVICES TO ALL CONSUMERS, INCLUDING THOSE
31 IN LOW INCOME, RURAL, INSULAR, AND HIGH COST AREAS AT RATES THAT ARE
32 REASONABLY COMPARABLE TO THOSE CHARGED IN HIGH-DENSITY URBAN AREAS
33 AND/OR IN THE AREA OF THE STATE WHERE SUCH SERVICES ARE MOST COMPETI-
34 TIVELY PRICED; AND TO INCREASE PHYSICAL AND SOCIAL ACCESS TO, AND THE
35 UBIQUITY OF, ADVANCED TELECOMMUNICATIONS SERVICES AVAILABLE TO THE
36 PUBLIC IN AN EQUITABLE AND NONDISCRIMINATORY MANNER.

37 2. ALL MONEYS OF THE AUTHORITY FROM WHATEVER SOURCE DERIVED INCLUDING
38 SUCH FUNDS AS MAY BE APPROPRIATED AND ANY GIFTS, GRANTS, DONATIONS FROM
39 PUBLIC OR PRIVATE SOURCES, OR MONEYS RAISED FROM BONDS OR NOTES, SHALL
40 BE DEPOSITED IN THE FUND.

41 3. INTEREST EARNED ON MONEYS IN THE FUND SHALL REMAIN IN THE FUND AND
42 BE CREDITED TO IT. ANY MONEYS REMAINING IN THE FUND AT THE END OF EACH
43 FISCAL YEAR, INCLUDING INTEREST THEREON, SHALL NOT REVERT TO THE GENERAL
44 FUND BUT SHALL REMAIN IN THE FUND AND EXPENDITURES AND DISBURSEMENTS
45 FROM THE FUND, WHICH MAY CONSIST OF GRANTS OR LOANS, SHALL BE MADE BY
46 THE COMPTROLLER UPON WRITTEN REQUEST BEARING THE SIGNATURE OF THE CHAIR
47 OR THE VICE-CHAIR OF THE AUTHORITY, OR, IF SO AUTHORIZED BY THE AUTHORI-
48 TY, BEARING HIS OR HER FACSIMILE SIGNATURE, AND THE OFFICIAL SEAL OF THE
49 AUTHORITY.

50 4. THE RECEIPT OF MONIES FROM THE FUND SHALL BE CONDITIONED UPON THE
51 ACCEPTANCE BY PUBLIC AND PRIVATE TELECOMMUNICATIONS SERVICES PROVIDER
52 RECIPIENTS OF THE IMPORTANT STATE POLICY THAT THE REASONABLY UNFETTERED
53 ACCESS OF THE CITIZENRY TO THE MAXIMALLY DIVERSE INTERNET IS IN THE
54 PUBLIC INTEREST, WITH THE EXPRESS UNDERSTANDING THAT TELECOMMUNICATIONS
55 PROVIDERS MAY CHOOSE TO BLOCK, LIMIT OR OTHERWISE RESTRICT THE PASSAGE
56 OF ELECTRONIC MAIL MESSAGE OR OTHER CONTENT THAT TRANSMIT, PORTRAY,

1 DESCRIBE, REPRESENT OR OTHERWISE CONTAIN MATTERS SUCH AS CHILD PORNOGRA-
2 PHY OR SIMILAR OBSCENITY, OTHER UNLAWFUL MATERIAL, THREATS OF SERIOUS
3 BODILY HARM, THREATS TO THE PUBLIC SAFETY AND HOMELAND SECURITY, THREATS
4 OF DEATH TO INDIVIDUALS OR GROUPS OF INDIVIDUALS, VIRUSES OR SIMILAR
5 COMPUTER GENERATED PROGRAMS OR CODE THAT HAVE THE POTENTIAL TO HARM
6 COMPUTER HARDWARE AND/OR SOFTWARE AND/OR NETWORKS, EXCESSIVE UNSOLICITED
7 COMMERCIAL EMAIL THAT DEGRADES OR INTERFERES WITH OR HARMS THE NORMAL
8 OPERATION OF BROADBAND NETWORKS, AND OTHER SIMILAR TYPES OR FORMS OF
9 MATERIAL OR SOFTWARE (THE FOREGOING EXAMPLES ARE ILLUSTRATIVE, NOT
10 EXHAUSTIVE OF SUCH THREATS TO USERS AND/OR THE NETWORK). EACH RECIPIENT
11 OF MONIES FROM THE FUND SHALL PROVIDE TO THE AUTHORITY ON AN ANNUAL
12 BASIS A WRITTEN REPORT DESCRIBING EVERY INSTANCE IN WHICH SUCH RECIPIENT
13 BLOCKS, LIMITS OR OTHERWISE RESTRICTS SUBSCRIBERS OR OTHER PURCHASERS OF
14 BROADBAND SERVICES FROM THE RECIPIENT FROM ACCESSING ANY PARTICULAR
15 INTERNET SITE OR CATEGORY OR TYPE OF INTERNET SITE OR ANY SPECIFIC ELEC-
16 TRONIC MAIL MESSAGE OR CATEGORY OR TYPE OF ELECTRONIC MAIL ("NEUTRALITY
17 REPORT"). SUCH NEUTRALITY REPORT SHALL CONTAIN DETAIL OF A SPECIFICITY
18 LEVEL TO BE DETERMINED BY THE AUTHORITY, AND SHALL CONTAIN SUFFICIENT
19 DETAIL TO ALLOW THE AUTHORITY TO ASCERTAIN THE NATURE OF ANY BLOCKING,
20 LIMITATION OR OTHER RESTRICTIONS, AND THE REASON FOR THE RECIPIENT
21 TAKING SUCH ACTION, BUT SHALL BE PROVIDED IN A MANNER REASONABLY CALCU-
22 LATED TO PROTECT SUBSCRIBER AND PURCHASER PRIVACY OR THE LEGITIMATE
23 NEEDS OF LAW ENFORCEMENT. NO RECIPIENT OF FUNDS SHALL BE RESPONSIBLE OR
24 LIABLE FOR ANY EFFORTS BY OR POLICIES, PRACTICES OR PROCEDURES OF AN
25 UNAFFILIATED TELECOMMUNICATIONS SERVICES PROVIDER OR INTERNET SERVICES
26 PROVIDER OR INTERNET PROTOCOL TRAFFIC ROUTING ENTITY TO BLOCK SUBSCRIB-
27 ERS FROM ACCESSING ANY INTERNET SITE OR ANY CATEGORY OR TYPE OF INTERNET
28 SITE OR ANY SPECIFIC ELECTRONIC MAIL MESSAGE OR ANY CATEGORY OR TYPE OF
29 ELECTRONIC MAIL.

30 5. ANY PLEDGE MADE BY THE AUTHORITY IS VALID AND BINDING FROM THE DATE
31 THAT THE PLEDGE IS MADE. THE MONEY OR PROPERTY PLEDGED AND RECEIVED BY
32 THE AUTHORITY SHALL IMMEDIATELY BE SUBJECT TO THE LIEN OF THE PLEDGE
33 WITHOUT ANY PHYSICAL DELIVERY OR FURTHER ACT AND THE LIEN OF THE PLEDGE
34 IS VALID AND BINDING AGAINST ALL PARTIES HAVING CLAIMS IN TORT,
35 CONTRACT, OR OTHERWISE AGAINST THE AUTHORITY, IRRESPECTIVE OF WHETHER
36 THE PARTIES HAVE NOTICE OF THE LIEN. THE RESOLUTION OR ANY OTHER INSTRU-
37 MENT BY WHICH A PLEDGE IS CREATED NEED NOT BE RECORDED.

38 S 4114. APPROPRIATIONS BY ANY GOVERNMENT OR MUNICIPAL CORPORATION. ANY
39 GOVERNMENT OR MUNICIPAL CORPORATION MAY MAKE APPROPRIATIONS FOR THE
40 ACQUISITION, CONSTRUCTION, IMPROVEMENT, MAINTENANCE OR OPERATION OF ANY
41 PROJECT ACQUIRED, CONSTRUCTED, IMPROVED, MAINTAINED OR OPERATED BY THE
42 AUTHORITY.

43 S 4115. CONVEYANCE, LEASE OR TRANSFER OF PROPERTY BY A CITY OR COUNTY
44 TO THE AUTHORITY. ANY CITY OR COUNTY WITHIN NEW YORK STATE IN ORDER TO
45 PROVIDE FOR THE CONSTRUCTION, RECONSTRUCTION, IMPROVEMENT, REPAIR OR
46 MANAGEMENT OF ANY PROJECT, OR IN ORDER TO ACCOMPLISH ANY OF THE PURPOSES
47 OF THIS ARTICLE MAY, WITH OR WITHOUT CONSIDERATION OR FOR A NOMINAL
48 CONSIDERATION, LEASE, SELL, CONVEY OR OTHERWISE TRANSFER TO THE AUTHORI-
49 TY ANY REAL, PERSONAL OR MIXED PROPERTY LOCATED WITHIN SUCH CITY OR
50 COUNTY.

51 S 4116. ACTIONS AGAINST THE AUTHORITY. 1. IN EVERY ACTION AGAINST THE
52 AUTHORITY FOR DAMAGES, FOR INJURIES TO REAL OR PERSONAL PROPERTY, OR FOR
53 THE DESTRUCTION THEREOF, OR FOR PERSONAL INJURIES, THE COMPLAINT SHALL
54 CONTAIN AN ALLEGATION THAT AT LEAST THIRTY DAYS HAVE ELAPSED SINCE THE
55 DEMAND, CLAIM OR CLAIMS UPON WHICH SUCH ACTION IS FOUNDED WERE PRESENTED
56 TO A MEMBER OF THE AUTHORITY, OR TO ITS SECRETARY, OR TO ITS CHIEF EXEC-

UTIVE OFFICER AND THAT THE AUTHORITY HAS NEGLECTED OR REFUSED TO MAKE AN ADJUSTMENT OR PAYMENT THEREOF FOR THIRTY DAYS AFTER SUCH PRESENTMENT.

2. AN ACTION AGAINST THE AUTHORITY FOR DAMAGES FOR INJURIES TO REAL OR PERSONAL PROPERTY, OR FOR THE DESTRUCTION THEREOF, OR FOR PERSONAL INJURIES, ALLEGED TO HAVE BEEN SUSTAINED SHALL NOT BE COMMENCED MORE THAN ONE YEAR AND NINETY DAYS AFTER THE CAUSE OF ACTION THEREFOR SHALL HAVE ACCRUED, NOR UNLESS A NOTICE OF INTENTION TO COMMENCE SUCH ACTION AND OF THE TIME WHEN AND PLACE WHERE THE DAMAGES WERE INCURRED OR SUSTAINED, TOGETHER WITH A VERIFIED STATEMENT SHOWING IN DETAIL THE PROPERTY ALLEGED TO HAVE BEEN DAMAGED OR DESTROYED AND THE VALUE THEREOF, OR THE PERSONAL INJURIES ALLEGED TO HAVE BEEN SUSTAINED AND BY WHOM, SHALL HAVE BEEN FILED IN THE PRINCIPAL OFFICE OF THE AUTHORITY WITHIN NINETY DAYS AFTER SUCH CAUSE OF ACTION SHALL HAVE ACCRUED.

3. AN ACTION AGAINST THE AUTHORITY FOR WRONGFUL DEATH SHALL BE COMMENCED IN ACCORDANCE WITH THE NOTICE OF CLAIM AND TIME LIMITATION PROVISIONS OF TITLE ELEVEN OF ARTICLE NINE OF THIS CHAPTER.

S 4117. AUDIT POWER AND CONTRACT APPROVAL BY THE COMPTROLLER. 1. THE COMPTROLLER, OR HIS OR HER LEGALLY AUTHORIZED REPRESENTATIVES, SHALL HAVE THE AUTHORITY TO EXAMINE THE ACCOUNTS AND FINANCES OF THE AUTHORITY AND TO CONDUCT MANAGEMENT AUDITS OF THE STAFF AND BOARD OF THE AUTHORITY.

2. THE PROCUREMENT, PUBLIC WORK, CONSTRUCTION, AND REVENUE CONTRACTS OF THE AUTHORITY SHALL BE SUBJECT TO PRIOR REVIEW AND APPROVAL BY THE COMPTROLLER, IF THE COMPTROLLER, IN HIS OR HER DISCRETION, DETERMINES THAT SUCH REVIEW AND APPROVAL SHALL BE REQUIRED. IF THE COMPTROLLER DETERMINES THAT ANY CONTRACT OR CATEGORY OF CONTRACTS OF A STATE AUTHORITY REQUIRES DIRECT SUPERVISION IN THE FORM OF PRE-APPROVAL OF CONTRACTS, AND THE COMPTROLLER SO NOTIFIES SUCH STATE AUTHORITY OF SUCH DETERMINATION, THEN SUBJECT TO SUBDIVISION THREE OF THIS SECTION, NO SUCH CONTRACT OR AGREEMENT BY SUCH STATE AUTHORITY SELECTED FOR REVIEW BY THE COMPTROLLER SHALL BE A VALID ENFORCEABLE CONTRACT UNLESS SUCH CONTRACT SHALL FIRST BE APPROVED BY THE COMPTROLLER. IN THE EVENT THAT THE COMPTROLLER NOTIFIES THE AUTHORITY THAT APPROVAL SHALL BE REQUIRED AS PROVIDED IN THIS SECTION, THEN THE AUTHORITY SHALL INCLUDE A PROVISION IN ALL SUCH CONTRACTS SELECTED FOR REVIEW AS STATED IN ANY SUCH NOTICE INFORMING THE OTHER PARTIES TO SUCH CONTRACTS THAT THE SAME ARE NOT VALID AND ENFORCEABLE WITHOUT THE COMPTROLLER'S APPROVAL.

3. ANY CONTRACT SELECTED BY THE COMPTROLLER FOR REVIEW AND APPROVAL PURSUANT TO SUBDIVISION TWO OF THIS SECTION SHALL BE A VALID ENFORCEABLE CONTRACT ONLY IF THE COMPTROLLER (A) APPROVES THE CONTRACT, OR (B) HAS NOT DISAPPROVED THE CONTRACT WITHIN FORTY-FIVE DAYS OF THE SUBMISSION OF SUCH CONTRACT TO HIS OR HER OFFICE, UNLESS THE STATE AUTHORITY SHALL AGREE WITH THE COMPTROLLER ON AN EXTENSION FOR A REASONABLE PERIOD OF TIME.

S 4118. ANNUAL REPORT. THE AUTHORITY SHALL SUBMIT AN ANNUAL REPORT NO LATER THAN MARCH FIRST OF EACH YEAR, INCLUDING THE RECOMMENDATIONS MADE BY THE BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL UNDER SECTION FORTY-ONE HUNDRED FIVE OF THIS ARTICLE, RELATING TO ITS ACTIVITIES FOR THE PRECEDING CALENDAR YEAR TO THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE, THE CHAIR OF THE ASSEMBLY STANDING COMMITTEE ON CORPORATIONS, AUTHORITIES AND COMMISSIONS, AND THE CHAIR OF THE SENATE STANDING COMMITTEE ON ENERGY AND TELECOMMUNICATIONS.

S 4119. EFFECT OF INCONSISTENT PROVISIONS. INsofar AS THE PROVISIONS OF THIS ARTICLE ARE INCONSISTENT WITH THE PROVISIONS OF ANY OTHER ACT, GENERAL OR SPECIAL, THE PROVISIONS OF THIS TITLE SHALL BE CONTROLLING.

1 S 4120. SEVERABILITY. IF ANY PROVISION OF ANY SECTION OF THIS ARTICLE
2 OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE SHALL BE
3 ADJUDGED INVALID BY A COURT OF COMPETENT JURISDICTION, SUCH ORDER OR
4 JUDGMENT SHALL BE CONFINED IN ITS OPERATION TO THE CONTROVERSY IN WHICH
5 IT WAS RENDERED, AND SHALL NOT AFFECT OR INVALIDATE THE REMAINDER OF ANY
6 PROVISION OF ANY SECTION OF THIS ARTICLE OR THE APPLICATION OF ANY PART
7 THEREOF TO ANY OTHER PERSON OR CIRCUMSTANCE AND TO THIS END THE
8 PROVISIONS OF EACH SECTION OF THIS ARTICLE ARE HEREBY DECLARED TO BE
9 SEVERABLE.

10 S 4. The public service law is amended by adding a new section 92-h to
11 read as follows:

12 S 92-H. UNIVERSAL, AFFORDABLE AND SECURE TELECOMMUNICATIONS SERVICES
13 FUND. 1. THE COMMISSION SHALL ESTABLISH A MECHANISM FOR THE SUPPORT OF
14 UNIVERSAL SERVICE, ALSO REFERRED TO IN THIS SECTION AS THE "HIGH COST
15 SUPPORT MECHANISM", WHICH SHALL OPERATE IN ACCORDANCE WITH RULES ADOPTED
16 BY THE COMMISSION. THE PURPOSE OF THE HIGH COST SUPPORT MECHANISM IS TO
17 PROVIDE FINANCIAL ASSISTANCE TO TELECOMMUNICATIONS SERVICES PROVIDERS TO
18 HELP MAKE BASIC LOCAL EXCHANGE AND BROADBAND SERVICES UNIVERSALLY AVAIL-
19 ABLE, AT JUST AND REASONABLE RATES AND ALLOW SUCH PROVIDERS TO BE FULLY
20 REIMBURSED FOR THE DIFFERENCE BETWEEN THE REASONABLE COSTS INCURRED IN
21 MAKING BASIC SERVICE AVAILABLE TO THEIR CUSTOMERS WITHIN A RURAL, HIGH
22 COST GEOGRAPHIC SUPPORT AREA AND THE PRICE CHARGED FOR SUCH SERVICE,
23 AFTER TAKING INTO ACCOUNT ANY AMOUNTS RECEIVED BY SUCH PROVIDERS UNDER
24 PRICE SUPPORT MECHANISMS ESTABLISHED BY THE FEDERAL GOVERNMENT AND BY
25 THIS STATE. THE COMMISSION SHALL ENSURE THAT NO TELECOMMUNICATIONS
26 SERVICES PROVIDER IS RECEIVING FUNDS FROM THIS OR ANY OTHER SOURCE THAT,
27 TOGETHER WITH LOCAL EXCHANGE SERVICE REVENUES, EXCEEDS THE COST OF
28 PROVIDING LOCAL EXCHANGE SERVICE TO CUSTOMERS OF SUCH PROVIDER. THE HIGH
29 COST SUPPORT MECHANISM SHALL BE SUPPORTED AND DISTRIBUTED EQUITABLY AND
30 ON A NONDISCRIMINATORY, COMPETITIVELY NEUTRAL BASIS THROUGH A RATE
31 ELEMENT ASSESSED ON ALL TELECOMMUNICATIONS SERVICE PROVIDERS IN NEW
32 YORK. A PROVIDER THAT OFFERS BASIC LOCAL EXCHANGE SERVICE OR BROADBAND
33 SERVICE THROUGHOUT AN ENTIRE SUPPORT AREA THROUGH USE OF ITS OWN FACILI-
34 TIES OR ON A RESALE BASIS MAY BE QUALIFIED AS A PROVIDER OF LAST RESORT
35 OR MAY BE ELIGIBLE TO RECEIVE UNIVERSAL SERVICE SUPPORT, AS DETERMINED
36 BY THE COMMISSION. A PROVIDER THAT FAILS TO PAY AN ASSESSMENT DUE AND
37 PAYABLE UNDER THIS SECTION SHALL BE SUBJECT TO THE REVOCATION OF CERTIF-
38 ICATE AFTER NOTICE AND THE OPPORTUNITY FOR A HEARING AS PROVIDED IN THIS
39 CHAPTER. IN ALL RELEVANT GEOGRAPHIC AREAS OF THE STATE, AS DEFINED BY
40 THE COMMISSION, THE COMMISSION SHALL DESIGNATE AT LEAST ONE PROVIDER AS
41 THE PROVIDER OF LAST RESORT AND ADOPT PROCEDURES FOR CHANGING OR TERMI-
42 NATING SUCH DESIGNATIONS. A PROVIDER OF LAST RESORT DESIGNATION CARRIES
43 THE RESPONSIBILITY TO OFFER BASIC LOCAL EXCHANGE SERVICE AND BROADBAND
44 SERVICE TO ALL CONSUMERS WHO REQUEST IT. A PERSON HOLDING A CERTIFICATE
45 OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE BASIC SERVICE SHALL BE
46 SUBJECT TO THE EVOLVING DEFINITION OF BASIC SERVICE DEVELOPED BY THE
47 COMMISSION UNDER THIS CHAPTER AND THE SYSTEM OF FINANCIAL SUPPORT FOR
48 UNIVERSAL SERVICE ESTABLISHED BY THE COMMISSION UNDER THIS SECTION. IF
49 AND WHEN ADDITIONAL ELEMENTS ARE INCLUDED IN THE DEFINITION OF BASIC
50 SERVICE AS A RESULT OF REVIEW BY THE COMMISSION, PRICES MAY INCREASE AS
51 IS DETERMINED BY THE COMMISSION TO BE REASONABLY NECESSARY TO COVER THE
52 COST AND ACCOUNT FOR THE INCLUSION OF SUCH ADDITIONAL ELEMENTS.

53 2. ON OR BEFORE DECEMBER FIRST OF EACH YEAR, THE COMMISSION SHALL
54 SUBMIT A WRITTEN REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE
55 SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF THE SENATE AND
56 ASSEMBLY, CHAIRPERSON AND RANKING MINORITY MEMBER OF THE SENATE ENERGY

1 AND TELECOMMUNICATIONS COMMITTEE, AND THE CHAIRPERSON AND RANKING MINOR-
2 ITY MEMBER OF THE ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMISSIONS
3 COMMITTEE, ACCOUNTING FOR THE OPERATION OF THE HIGH COST SUPPORT MECH-
4 ANISM DURING THE PRECEDING CALENDAR YEAR AND CONTAINING THE FOLLOWING
5 INFORMATION, AT A MINIMUM:

6 (A) THE TOTAL AMOUNT OF MONEY THAT THE COMMISSION DETERMINED SHOULD
7 CONSTITUTE THE HIGH COST SUPPORT MECHANISM FROM WHICH DISTRIBUTIONS
8 WOULD BE MADE;

9 (B) THE TOTAL AMOUNT OF MONEY ORDERED TO BE CONTRIBUTED THROUGH A RATE
10 ELEMENT ASSESSMENT COLLECTED BY EACH TELECOMMUNICATIONS SERVICE PROVID-
11 ER;

12 (C) THE BASIS ON WHICH THE CONTRIBUTION OF EACH TELECOMMUNICATIONS
13 SERVICE PROVIDER WAS CALCULATED;

14 (D) THE BENCHMARKS USED AND THE BASIS ON WHICH THE BENCHMARKS WERE
15 DETERMINED;

16 (E) THE TOTAL AMOUNT OF MONEY THAT THE COMMISSION DETERMINED SHOULD BE
17 DISTRIBUTED FROM THE HIGH COST SUPPORT MECHANISM;

18 (F) THE TOTAL AMOUNT OF MONEY DISTRIBUTED TO EACH TELECOMMUNICATIONS
19 SERVICE PROVIDER FROM THE HIGH COST SUPPORT MECHANISM;

20 (G) THE BASIS ON WHICH THE DISTRIBUTION TO TELECOMMUNICATIONS SERVICE
21 PROVIDERS WAS CALCULATED;

22 (H) AS TO EACH TELECOMMUNICATIONS SERVICE PROVIDER RECEIVING A
23 DISTRIBUTION, THE AMOUNT RECEIVED BY GEOGRAPHIC SUPPORT AREA AND TYPE OF
24 CUSTOMER, THE WAY IN WHICH THE BENEFIT OF THE DISTRIBUTION WAS APPLIED
25 OR ACCOUNTED FOR;

26 (I) THE PROPOSED BENCHMARKS, THE PROPOSED CONTRIBUTIONS TO BE
27 COLLECTED THROUGH A RATE ELEMENT ASSESSMENT BY EACH TELECOMMUNICATIONS
28 SERVICE PROVIDER, AND THE PROPOSED TOTAL AMOUNT OF THE HIGH COST SUPPORT
29 MECHANISM FROM WHICH DISTRIBUTIONS ARE TO BE MADE FOR THE FOLLOWING
30 CALENDAR YEAR; AND

31 (J) THE TOTAL AMOUNT OF DISTRIBUTIONS MADE FROM THE HIGH COST FUND,
32 DIRECTLY OR INDIRECTLY, AND HOW THEY ARE BALANCED BY RATE REDUCTIONS BY
33 ALL PROVIDERS FOR THE SAME PERIOD AND A FULL ACCOUNTING OF AND JUSTI-
34 FICATION FOR ANY DIFFERENCE. IF THE REPORT SUBMITTED PURSUANT TO THIS
35 SUBDIVISION CONTAINS A PROPOSAL FOR AN INCREASE IN ANY OF THE AMOUNTS
36 LISTED IN PARAGRAPH (B) OF THIS SUBDIVISION, SUCH INCREASE SHALL BE
37 SUSPENDED UNTIL MARCH THIRTY-FIRST OF THE FOLLOWING YEAR.

38 SUCH REPORT MUST ALSO DETERMINE WHAT AMOUNT OF UNEXPENDED FUNDS, IF
39 ANY, AT THE END OF EACH FISCAL YEAR, COULD BE REFUNDED TO THE CONTRIBUT-
40 ING TELECOMMUNICATIONS SERVICES PROVIDERS ON A BASIS THAT IS PROPOR-
41 TIONAL TO THE AMOUNTS CONTRIBUTED BY SUCH TELECOMMUNICATIONS SERVICES
42 PROVIDERS.

43 3. THERE IS HEREBY CREATED, IN THE STATE TREASURY, THE NEW YORK HIGH
44 COST ADMINISTRATION FUND, REFERRED TO IN THIS SECTION AS THE "FUND",
45 WHICH SHALL BE USED TO REIMBURSE THE COMMISSION AND, IF APPLICABLE, ITS
46 CONTRACTORS, FOR REASONABLE EXPENSES INCURRED IN THE ADMINISTRATION OF
47 THE HIGH COST SUPPORT MECHANISM AS DETERMINED BY RULES OF THE COMMIS-
48 SION, AND SHALL BE AUDITED IN A MANNER AND FREQUENCY TO BE DETERMINED BY
49 THE COMPTROLLER. THE MONEYS IN THE FUND THAT ARE TO BE USED FOR THE
50 DIRECT AND INDIRECT ADMINISTRATIVE COSTS INCURRED BY THE COMMISSION AND
51 ITS CONTRACTORS SHALL BE APPROPRIATED ANNUALLY BY THE LEGISLATURE. AT
52 THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN
53 THE FUND SHALL REMAIN THEREIN AND SHALL NOT BE CREDITED OR TRANSFERRED
54 TO THE GENERAL FUND OR ANY OTHER FUND. BASED UPON THE BALANCE REMAINING
55 IN THE FUND AND THE AMOUNT APPROPRIATED ANNUALLY BY THE LEGISLATURE FOR
56 USE BY THE COMMISSION, EACH YEAR THE COMMISSION SHALL DETERMINE THE

NONDISCRIMINATORY, COMPETITIVELY NEUTRAL ASSESSMENT ON ALL TELECOMMUNICATIONS SERVICE PROVIDERS IN NEW YORK THAT WILL BE NECESSARY TO COVER THE COST OF IMPLEMENTING THE HIGH COST SUPPORT MECHANISM. ONLY THE MONEYS FROM SUCH ASSESSMENT SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF THIS FUND SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND.

S 5. The public service law is amended by adding a new article 11-A to read as follows:

ARTICLE 11-A

STATEWIDE CABLE FRANCHISING AND REGULATION

SECTION 231. DEFINITIONS.

232. AUTHORIZATION TO PROVIDE CABLE SERVICE.

233. PUBLIC SERVICE COMMISSION RESPONSIBILITIES.

234. APPLICATION FOR STATEWIDE CABLE FRANCHISE.

235. LENGTH OF STATEWIDE FRANCHISE.

236. TERMINATION OF A STATEWIDE FRANCHISE.

237. ABANDONMENT OF SERVICE.

238. MUNICIPAL POWER AND REGULATION OVER FRANCHISE HOLDERS.

239. PAYMENT AND REMITTANCE OF FRANCHISE FEE.

240. PUBLIC, EDUCATIONAL AND GOVERNMENT CHANNELS.

241. CABLE OPERATOR'S COMMUNITY COMMITMENT.

242. CONSUMER PROTECTION RULES.

243. NEUTRAL INTERNET AND BROADBAND NETWORKS.

244. DEPLOYMENT REQUIREMENTS FOR STATEWIDE CABLE FRANCHISE.

245. DISCRIMINATION IN THE PROVISIONING OF SERVICE PROHIBITED.

246. ENFORCEMENT.

S 231. DEFINITIONS. THE WORDS AND PHRASES USED IN THIS ARTICLE SHALL HAVE THE FOLLOWING MEANINGS UNLESS A DIFFERENT MEANING CLEARLY APPEARS IN THE CONTEXT.

1. "CABLE SERVICE" SHALL MEAN THE ONE-WAY TRANSMISSION TO SUBSCRIBERS OF VIDEO PROGRAMMING; OR OTHER PROGRAMMING SERVICE, AND SUBSCRIBER INTERACTION, IF ANY, WHICH IS REQUIRED FOR THE SELECTION OR USE OF SUCH VIDEO PROGRAMMING OR OTHER PROGRAMMING SERVICE, REGARDLESS OF THE TECHNOLOGY UTILIZED BY A CABLE TELEVISION COMPANY TO ENABLE SUCH SELECTION OR USE.

2. "CABLE OPERATOR" SHALL MEAN ANY PERSON OR GROUP OF PERSONS (A) WHO PROVIDES CABLE SERVICE OVER A CABLE SYSTEM AND DIRECTLY OR THROUGH ONE OR MORE AFFILIATES OWNS A SIGNIFICANT INTEREST IN SUCH CABLE SYSTEM, OR (B) WHO OTHERWISE CONTROLS OR IS RESPONSIBLE FOR, THROUGH ANY ARRANGEMENT, THE MANAGEMENT AND OPERATION OF SUCH A CABLE SYSTEM, AS SET FORTH IN 47 U.S.C. S 522(5).

3. "CABLE SYSTEM" SHALL MEAN ANY FACILITY, CONSISTING OF A SET OF CLOSED TRANSMISSION PATHS AND ASSOCIATED SIGNAL GENERATION, RECEPTION AND CONTROL EQUIPMENT THAT IS DESIGNED TO PROVIDE CABLE SERVICE WHICH INCLUDES VIDEO PROGRAMMING, WITHOUT REGARD TO THE TECHNOLOGY USED TO DELIVER SUCH VIDEO PROGRAMMING, INCLUDING INTERNET PROTOCOL TECHNOLOGY OR ANY SUCCESSOR TECHNOLOGY AND WHICH IS PROVIDED TO MULTIPLE SUBSCRIBERS WITHIN A COMMUNITY, AS SET FORTH IN 47 U.S.C. S 522(7), BUT SUCH TERM DOES NOT INCLUDE:

(A) A FACILITY THAT SERVES ONLY TO RETRANSMIT THE TELEVISION SIGNALS OF ONE OR MORE TELEVISION BROADCAST STATIONS;

(B) A FACILITY THAT SERVES SUBSCRIBERS WITHOUT USING ANY PUBLIC RIGHT-OF-WAY;

(C) A FACILITY OF A COMMON CARRIER WHICH IS SUBJECT, IN WHOLE OR IN PART, TO THE PROVISIONS OF TITLE II OF THE COMMUNICATIONS ACT OF 1934,

1 47 U.S.C. S 201 ET SEQ., EXCEPT THAT SUCH FACILITY SHALL BE CONSIDERED A
2 CABLE SYSTEM (OTHER THAN FOR PURPOSES OF 47 U.S.C. S 541(C)) TO THE
3 EXTENT SUCH FACILITY IS USED IN THE TRANSMISSION OF VIDEO PROGRAMMING
4 DIRECTLY TO SUBSCRIBERS, UNLESS THE EXTENT OF SUCH USE IS SOLELY TO
5 PROVIDE INTERACTIVE ON-DEMAND SERVICES;

6 (D) AN OPEN VIDEO SYSTEM THAT COMPLIES WITH 47 U.S.C. S 573; OR

7 (E) ANY FACILITIES OF ANY ELECTRIC UTILITY USED SOLELY FOR OPERATING
8 ITS ELECTRIC UTILITY SYSTEM.

9 4. "CATV COMPANY" SHALL MEAN ANY PERSON OR GROUP OF PERSONS (A) WHO
10 PROVIDES CABLE SERVICE OVER A CABLE SYSTEM AND DIRECTLY OR THROUGH ONE
11 OR MORE AFFILIATES OWNS A SIGNIFICANT INTEREST IN SUCH CABLE SYSTEM, OR
12 (B) WHO OTHERWISE CONTROLS OR IS RESPONSIBLE FOR, THROUGH ANY ARRANGE-
13 MENT, THE MANAGEMENT AND OPERATION OF SUCH A CABLE SYSTEM.

14 5. "CATV SYSTEM" SHALL MEAN ANY FACILITY WHICH RECEIVES AND AMPLIFIES
15 THE SIGNALS BROADCAST BY ONE OR MORE TELEVISION STATIONS AND REDISTRIB-
16 UTES SUCH SIGNALS BY WIRE, CABLE OR OTHER MEANS, OR WHICH DISTRIBUTES
17 SIGNALS IT ORIGINATES OR WHICH ARE ORIGINATED BY ANOTHER FOR VIEWING BY
18 SUBSCRIBERS, WHETHER THE WIRE, CABLE OR OTHER FACILITIES ARE OWNED OR
19 LEASED. A "CATV SYSTEM" SHALL NOT INCLUDE:

20 (A) THE POLES OR OTHER FACILITIES OF ANY TELEPHONE CORPORATION USED TO
21 PROVIDE CHANNEL SERVICE AS A COMMON CARRIER,

22 (B) A SYSTEM SERVING NOT MORE THAN TWO HUNDRED FIFTY SUBSCRIBERS, OR

23 (C) A MASTER ANTENNA SYSTEM SERVICING SUBSCRIBERS SITUATED ON PROPERTY
24 UNDER COMMON OWNERSHIP.

25 6. "COMMISSION" SHALL MEAN THE PUBLIC SERVICE COMMISSION OR ANY
26 SUCCESSOR AGENCY.

27 7. "FRANCHISE" SHALL MEAN AN INITIAL AUTHORIZATION, OR RENEWAL OF AN
28 AUTHORIZATION, ISSUED BY A FRANCHISING AUTHORITY, REGARDLESS OF WHETHER
29 THE AUTHORIZATION IS DESIGNATED AS A FRANCHISE, PERMIT, LICENSE, RESOL-
30 UTION, CONTRACT, CERTIFICATE, AGREEMENT, OR OTHERWISE, THAT AUTHORIZES
31 THE CONSTRUCTION AND OPERATION OF A CABLE SYSTEM IN THE PUBLIC
32 RIGHTS-OF-WAY.

33 8. "FRANCHISE HOLDER" OR "HOLDER" SHALL MEAN A PERSON WHO HAS RECEIVED
34 A STATE-WIDE FRANCHISE, BUT HAS NOT TRANSFERRED OR TERMINATED SUCH FRAN-
35 CHISE AUTHORIZATION, IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

36 9. "FRANCHISING AUTHORITY" SHALL MEAN THE PUBLIC SERVICE COMMISSION
37 AND MUNICIPALITIES WHICH ARE ENTITLED TO REQUIRE FRANCHISES AND IMPOSE
38 FEES IN ACCORDANCE WITH 47 U.S.C. SS 522(10) AND 542, RESPECTIVELY.

39 10. "GROSS REVENUES" SHALL MEAN ANY AND ALL REVENUES, INCLUDING CASH,
40 CREDITS, PROPERTY OR OTHER CONSIDERATION OF ANY KIND OR NATURE ARISING
41 FROM, ATTRIBUTABLE TO, OR IN ANY WAY DERIVED DIRECTLY OR INDIRECTLY FROM
42 THE OPERATION OF THE FRANCHISEE'S CABLE SYSTEM (INCLUDING THE STUDIOS
43 AND OTHER FACILITIES ASSOCIATED THEREWITH) TO PROVIDE CABLE SERVICES.
44 GROSS REVENUES INCLUDE, BY WAY OF ILLUSTRATION AND NOT LIMITATION,
45 MONTHLY FEES CHARGED SUBSCRIBERS FOR ANY BASIC, OPTIONAL, PREMIUM, PER-
46 CHANNEL, PER-PROGRAM SERVICE, OR CABLE PROGRAMMING SERVICE; INSTALLA-
47 TION, DISCONNECTION, RECONNECTION, AND CHANGE-IN-SERVICE FEES; LEASED
48 CHANNEL FEES; LATE FEES AND ADMINISTRATIVE FEES, PAYMENTS, OR OTHER
49 CONSIDERATION RECEIVED FROM PROGRAMMERS FOR CARRIAGE OF PROGRAMMING ON
50 THE SYSTEM; REVENUES FROM RENTALS OR SALES OF CONVERTERS OR OTHER EQUIP-
51 MENT; ANY STUDIO RENTAL, PRODUCTION EQUIPMENT, AND PERSONNEL FEES;
52 ADVERTISING REVENUES; BARTER; REVENUES FROM PROGRAM GUIDES; REVENUES
53 FROM THE SALE OR CARRIAGE OF OTHER CABLE SERVICES; AND REVENUES FROM
54 HOME SHOPPING CHANNELS AND OTHER REVENUE SHARING ARRANGEMENTS. GROSS
55 REVENUES SHALL INCLUDE REVENUES RECEIVED BY ANY ENTITY OTHER THAN THE
56 FRANCHISEE, AN AFFILIATE, OR ANOTHER ENTITY THAT OPERATES THE SYSTEM

1 WHERE NECESSARY TO PREVENT EVASION OR AVOIDANCE OF THE OBLIGATION UNDER
2 THIS STATUTE TO PAY THE FRANCHISE FEE. GROSS REVENUES SHALL NOT INCLUDE:

3 (A) AMOUNTS NOT ACTUALLY RECEIVED, EVEN IF BILLED, SUCH AS BAD DEBT;
4 REFUNDS, REBATES OR DISCOUNTS TO SUBSCRIBERS OR THIRD PARTIES; OR REVEN-
5 UE IMPUTED FROM THE PROVISION OF CABLE SERVICES FOR FREE OR AT REDUCED
6 RATES TO ANY PERSON AS REQUIRED OR ALLOWED BY LAW, INCLUDING, WITHOUT
7 LIMITATION, THE PROVISION OF SUCH SERVICES TO PUBLIC INSTITUTIONS,
8 PUBLIC SCHOOLS, GOVERNMENTAL ENTITIES, OR EMPLOYEES, OTHER THAN FORGONE
9 REVENUE CHOSEN NOT TO BE RECEIVED IN EXCHANGE FOR TRADES, BARTERS,
10 SERVICES, OR OTHER ITEMS OF VALUE; OR

11 (B) ANY REVENUE FROM ANY CHARGES OR FEES DERIVED FROM SERVICES CLASSI-
12 FIED AS NON-CABLE SERVICES AND INFORMATION SERVICES AND ANY OTHER REVEN-
13 UES ATTRIBUTED BY THE HOLDER OF A CERTIFICATE OF APPROVAL OR SYSTEMWIDE
14 FRANCHISE TO NON-CABLE SERVICES IN ACCORDANCE WITH FEDERAL COMMUNI-
15 CATIONS COMMISSIONS RULES, REGULATIONS, STANDARDS, OR ORDERS.

16 IN THE CASE OF CABLE SERVICE THAT MAY BE BUNDLED OR INTEGRATED FUNC-
17 TIONALLY WITH OTHER SERVICES, CAPABILITIES OR APPLICATIONS, THE GROSS
18 REVENUES SHALL ONLY INCLUDE THOSE CHARGES OR FEES DERIVED FROM OR
19 ATTRIBUTABLE TO THE PROVISION OF CABLE SERVICE, AS REFLECTED ON THE
20 BOOKS AND RECORDS OF THE HOLDER OF A CERTIFICATE OF APPROVAL OR A
21 SYSTEMWIDE FRANCHISE, AS THE CASE MAY BE, IN ACCORDANCE WITH THE RULES,
22 REGULATIONS, STANDARDS AND ORDERS OF THE FEDERAL COMMUNICATIONS COMMIS-
23 SION.

24 11. "INCUMBENT CABLE OPERATOR" SHALL MEAN THE CABLE OPERATOR SERVING
25 THE LARGEST NUMBER OF CABLE SUBSCRIBERS IN A PARTICULAR MUNICIPAL FRAN-
26 CHISE AREA ON THE EFFECTIVE DATE OF THIS ARTICLE.

27 12. "MUNICIPALITY" SHALL MEAN A CITY OR TOWN WITHIN THE STATE.

28 13. "PERSON" SHALL MEAN AN INDIVIDUAL, PARTNERSHIP, ASSOCIATION, JOINT
29 STOCK COMPANY, TRUST, CORPORATION, GOVERNMENT ENTITY, LIMITED LIABILITY
30 COMPANY OR ANY OTHER ENTITY.

31 14. "PUBLIC RIGHT-OF-WAY" SHALL MEAN THE AREA ON, BELOW OR ABOVE A
32 PUBLIC ROADWAY, HIGHWAY, STREET, PUBLIC SIDEWALK, ALLEY, WATERWAY, OR
33 UTILITY EASEMENT IN WHICH A MUNICIPALITY HAS AN INTEREST.

34 15. "VIDEO PROGRAMMING" SHALL MEAN PROGRAMMING PROVIDED BY, OR GENER-
35 ALLY CONSIDERED COMPARABLE TO, PROGRAMMING PROVIDED BY A TELEVISION
36 BROADCAST STATION, AS SET FORTH IN 47 U.S.C. S 522(20).

37 S 232. AUTHORIZATION TO PROVIDE CABLE SERVICE. 1. NOTWITHSTANDING ANY
38 OTHER LAW TO THE CONTRARY AND SUBJECT TO THE PROVISIONS OF THIS ARTICLE,
39 A PERSON SEEKING TO PROVIDE CABLE SERVICE IN THE STATE AFTER THE EFFEC-
40 TIVE DATE OF THIS ARTICLE MAY FILE AN APPLICATION FOR A STATEWIDE FRAN-
41 CHISE WITH THE COMMISSION AS REQUIRED BY THIS SECTION. THIS ARTICLE DOES
42 NOT PRECLUDE CABLE OPERATORS FROM FILING INDIVIDUAL APPLICATIONS UNDER
43 ARTICLE ELEVEN OF THIS CHAPTER, PROVIDED HOWEVER THAT A PERSON FILING AN
44 APPLICATION FOR A STATEWIDE FRANCHISE WITH THE COMMISSION SHALL BE
45 REQUIRED UPON RECEIPT OF SUCH FRANCHISE TO COMPLY WITH SECTIONS TWO
46 HUNDRED FORTY-TWO AND TWO HUNDRED FORTY-THREE OF THIS ARTICLE WITH
47 REGARD TO ALL IN-STATE BROADBAND AND BROADBAND-CAPABLE FACILITIES AND
48 LINES BUILT DURING THE INITIAL BUILD-OUT PERIOD PURSUANT TO THE AUTHORI-
49 ZATION PROVIDED BY SUCH FRANCHISE, AND FOR THE PERIOD OF THE INITIAL
50 BUILD-OUT PERIOD WITH REGARD TO SUCH PERSON'S IN-STATE BROADBAND AND
51 BROADBAND-CAPABLE FACILITIES AND LINES IN EXISTENCE WHEN SUCH FRANCHISE
52 BECOMES EFFECTIVE.

53 2. A PERSON, INCLUDING AN INCUMBENT CABLE OPERATOR, PROVIDING CABLE
54 SERVICE UNDER A FRANCHISE AGREEMENT WITH A FRANCHISING AUTHORITY WHICH
55 EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE IS NOT SUBJECT TO
56 THIS SECTION UNTIL THE FRANCHISE AGREEMENT EXPIRES AT THE END OF ITS

1 ORIGINAL OR ANY MUTUALLY AGREEABLE RENEWAL TERM, OR UNLESS AND UNTIL THE
2 FRANCHISING AUTHORITY AND ENTITY PROVIDING CABLE SERVICE MUTUALLY AGREE
3 TO TERMINATE THE EXISTING FRANCHISE AGREEMENT.

4 3. NOTHING IN THIS SECTION SHALL RESTRICT A CABLE OPERATOR FROM APPLY-
5 ING TO THE COMMISSION FOR A STATEWIDE FRANCHISE TO PROVISION CABLE
6 SERVICES IN TERRITORIES OF THE STATE FOR WHICH IT DOES NOT HAVE AN
7 EXISTING FRANCHISE AGREEMENT WITH A FRANCHISING AUTHORITY. FOR PURPOSES
8 OF THIS SECTION, A CABLE OPERATOR WILL BE DEEMED TO HAVE A FRANCHISE TO
9 PROVIDE CABLE SERVICE IN THE JURISDICTION OF A SPECIFIC FRANCHISING
10 AUTHORITY IF ANY AFFILIATE, PREDECESSOR OR SUCCESSOR ENTITY OF THE CABLE
11 OPERATOR MAINTAINS A FRANCHISE GRANTED BY THAT FRANCHISING AUTHORITY.
12 THE TERMS "AFFILIATE, PREDECESSOR OR SUCCESSOR ENTITY" IN THIS SECTION
13 SHALL INCLUDE BUT NOT BE LIMITED TO ANY ENTITY RECEIVING, OBTAINING OR
14 OPERATING UNDER A FRANCHISE FROM A FRANCHISING ENTITY FOR CABLE SERVICE
15 THROUGH THE GRANT OF A FRANCHISE, MERGER, SALE, ASSIGNMENT, RESTRUCTUR-
16 ING, OR ANY OTHER TYPE OF TRANSACTION.

17 4. THE COMMISSION SHALL HAVE THE FRANCHISING AUTHORITY TO ISSUE STATE-
18 WIDE FRANCHISES FOR THE PROVISIONING OF CABLE SERVICE UNDER THIS ARTI-
19 CLE. NEITHER THE COMMISSION NOR ANY MUNICIPALITY IN THE STATE MAY
20 REQUIRE THE FRANCHISE HOLDER TO OBTAIN ANY SEPARATE OR ADDITIONAL FRAN-
21 CHISE OR OTHERWISE IMPOSE ANY FEE OR OTHER REQUIREMENT, INCLUDING BUT
22 NOT LIMITED TO THE REGULATION OF CABLE SERVICE RATES, ON ANY FRANCHISE
23 HOLDER AS A CONDITION OF PROVIDING CABLE SERVICE, EXCEPT AS PROVIDED IN
24 THIS ARTICLE.

25 5. 16 NYCRR S 895.3, AS AMENDED FROM TIME TO TIME, SHALL NOT APPLY TO
26 THIS ARTICLE.

27 S 233. PUBLIC SERVICE COMMISSION RESPONSIBILITIES. 1. THE COMMISSION
28 SHALL ASSIGN EXISTING PERMANENT STAFF OF SUCH LEGAL, TECHNICAL AND OTHER
29 EMPLOYEES OF THE COMMISSION AS MAY BE REQUIRED FOR THE PROPER CONDUCT OF
30 ITS CABLE FRANCHISING RESPONSIBILITIES UNDER THIS ARTICLE. THE POWERS
31 AND DUTIES OF THE PUBLIC SERVICE COMMISSION WITH RESPECT TO STATEWIDE
32 FRANCHISES SHALL NOT EXCEED THOSE PRESCRIBED IN THIS ARTICLE.

33 2. THE COMMISSION SHALL BE RESPONSIBLE FOR ESTABLISHING ADDITIONAL
34 ADMINISTRATIVE PROCEDURES AND REGULATIONS NOT EXPLICITLY GRANTED IN THIS
35 ARTICLE FOR THE ISSUANCE OF STATEWIDE FRANCHISES IN ACCORDANCE WITH THE
36 PROVISIONS OF THIS ARTICLE. THE COMMISSION'S ADMINISTRATIVE POWERS AND
37 DUTIES SHALL BE LIMITED TO THE PROVISION FOUND IN SECTION TWO HUNDRED
38 THIRTY-FOUR OF THIS ARTICLE AND ADDITIONAL POWERS INCLUDING THE:

39 (A) DEVELOPMENT OF PROCEDURES TO SUBMIT, REVIEW AND DOCUMENT APPLICA-
40 TIONS FILED WITH THE COMMISSION;

41 (B) REVIEW OF THE INITIAL SUBMISSION AND ANY UPDATES OF THE GENERAL
42 DESCRIPTION OF THE SERVICE AREA FOOTPRINT TO BE SERVED OR EXPANDED,
43 INCLUDING, IF APPLICABLE, ANY AREA WITHIN A MUNICIPALITY TO BE SERVED BY
44 AN APPLICANT;

45 (C) DETERMINATION AND NOTICE OF INCOMPLETE APPLICATIONS;

46 (D) APPROVAL OF APPLICATIONS AND AMENDED APPLICATIONS, OR DENIAL OF
47 SUCH APPLICATIONS, WITHIN THE PERIODS DESIGNATED UNDER THE PROVISIONS OF
48 THIS ARTICLE;

49 (E) ISSUANCE TO APPLICANTS WHOSE APPLICATIONS ARE APPROVED FOR STATE-
50 WIDE FRANCHISES TO PROVIDE CABLE SERVICE IN THE SERVICE AREA FOOTPRINT
51 DESCRIBED IN THE APPLICATION; TO CONSTRUCT, UPGRADE, OPERATE OR MAINTAIN
52 A NETWORK CAPABLE OF PROVIDING SUCH SERVICE, AND TO USE AND OCCUPY THE
53 PUBLIC RIGHTS-OF-WAY IN THE DELIVERY OF THAT SERVICE;

54 (F) DEVELOPMENT OF PROCEDURES TO REVIEW AND DOCUMENT THE TRANSFER OR
55 TERMINATION OF A STATEWIDE FRANCHISE;

(G) ESTABLISH GUIDELINES IN ADDITION TO THOSE DEVELOPED BY MUNICIPALITIES UNDER SECTION TWO HUNDRED THIRTY-EIGHT OF THIS ARTICLE, TO DEAL WITH ANY CONSUMER COMPLAINTS OR COMPLAINTS ALLEGING VIOLATIONS OF ANY PROVISIONS OF THIS ARTICLE. SUCH GUIDELINES SHALL BE EASILY ACCESSIBLE TO RESIDENTS OF THE STATE AND SHALL BE POSTED ON THE INTERNET. THE COMMISSION SHALL ALSO PROVIDE CONSUMER COMPLAINT FORMS ON THE INTERNET EVEN IF MUNICIPALITIES ESTABLISH THEIR OWN COMPLAINT FORMS. IN SUCH CASES, MUNICIPALITIES AND THE COMMISSION WILL WORK COOPERATIVELY TO ADDRESS CONSUMER COMPLAINTS.

S 234. APPLICATION FOR STATEWIDE CABLE FRANCHISE. 1. ANY PERSON WISHING TO PROVIDE CABLE SERVICE IN THE STATE AFTER THE EFFECTIVE DATE OF THIS ARTICLE MAY FILE AN APPLICATION FOR A STATEWIDE FRANCHISE WITH THE COMMISSION AS REQUIRED BY THIS SECTION. A STATEWIDE FRANCHISE APPLICATION SHALL BE ACCOMPANIED BY AN APPLICATION FEE OF TEN THOUSAND DOLLARS THAT SHALL BE USED BY THE COMMISSION TO CARRY OUT THE PURPOSES OF THIS ARTICLE. NOTHING IN THIS SECTION REQUIRES THAT ANY PERSON OR ENTITY FILE AN APPLICATION FOR A STATEWIDE FRANCHISE.

2. APPLICATIONS FOR A STATEWIDE FRANCHISE SHALL CONTAIN BUT NOT BE LIMITED TO:

(A) A STATEMENT THAT THE APPLICANT HAS FILED OR WILL TIMELY FILE WITH THE FEDERAL COMMUNICATIONS COMMISSION ALL FORMS REQUIRED BY THAT AGENCY IN ADVANCE OF OFFERING CABLE SERVICE IN THIS STATE;

(B) A STATEMENT THAT THE APPLICANT AGREES TO COMPLY WITH ALL OTHER APPLICABLE FEDERAL, STATE STATUTES AND REGULATIONS AND ALL GENERALLY APPLICABLE MUNICIPAL ORDINANCES AND REGULATIONS, INCLUDING WITHOUT LIMITATION MUNICIPAL ORDINANCES AND REGULATIONS REGARDING THE TIME, PLACE AND MANNER OF USING AND OCCUPYING PUBLIC RIGHTS-OF-WAY ADOPTED IN ACCORDANCE WITH STATE AND FEDERAL LAW;

(C) A GENERAL DESCRIPTION OF THE SERVICE AREA FOOTPRINT TO BE SERVED, INCLUDING, IF APPLICABLE, ANY AREA WITHIN A MUNICIPALITY TO BE SERVED BY THE APPLICANT. SUCH DESCRIPTION MAY BE SET FORTH ON ONE OR MORE MAPS. IF THE APPLICANT IS A TELEPHONE CORPORATION OR AN AFFILIATE OF A TELEPHONE CORPORATION, THE SERVICE AREA WILL INCLUDE A DESCRIPTION OF THE TERRITORY IN WHICH THE COMPANY PROVIDES TELEPHONE SERVICE. DESCRIPTIONS OF SERVICE AREA FOOTPRINTS SHALL BE UPDATED BY THE APPLICANT PRIOR TO THE EXPANSION OF CABLE SERVICE TO A PREVIOUSLY UNDESIGNATED SERVICE AREA AND, UPON SUCH EXPANSION, WRITTEN NOTICE SHALL BE GIVEN TO THE COMMISSION OF THE NEW SERVICE AREA TO BE SERVED BY THE APPLICANT. THE STATE-ISSUED FRANCHISE AREA AND ANY SERVICE AREA WITHIN THE FRANCHISE AREA MAY EXTEND BEYOND THE AREA OR AREAS WHERE THE APPLICANT HAS PRE-EXISTING AUTHORITY TO OCCUPY THE PUBLIC RIGHTS-OF-WAY;

(D) THE LOCATION OF THE APPLICANT'S PRINCIPAL PLACE OF BUSINESS, THE NAMES OF THE APPLICANT'S PRINCIPAL EXECUTIVE OFFICERS, AND THE NAME, ADDRESS AND TELEPHONE NUMBER OF AN OFFICER, GENERAL PARTNER OR OTHER EMPLOYEE OF THE APPLICANT WHO WILL BE RESPONSIBLE FOR ONGOING COMMUNICATIONS WITH THE COMMISSION;

(E) THE NAME AND LOCATION OF THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT'S PARENT COMPANY, IF ANY;

(F) THE SIGNATURE OF AN OFFICER OR GENERAL PARTNER OF THE APPLICANT VERIFYING THE INFORMATION SET FORTH IN THE APPLICATION;

(G) DEMONSTRATE THE FINANCIAL, TECHNICAL, MANAGERIAL AND LEGAL CHARACTER AND OTHER QUALIFICATIONS NEEDED TO CONSTRUCT, OPERATE, AND MAINTAIN THE NECESSARY PLANT AND TO PROVIDE SERVICE IN A SAFE, ADEQUATE AND PROPER MANNER;

(H) PROVIDE A RECORD OF COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS; AND

(I) PROVIDE ADDITIONAL INFORMATION AS NEEDED BY THE COMMISSION.

3. UPON FILING AN APPLICATION WITH THE COMMISSION FOR A SYSTEMWIDE FRANCHISE AGREEMENT PURSUANT TO SUBDIVISION TWO OF THIS SECTION, THE APPLICANT SHALL INCLUDE A LIST OF THE SPECIFIC MUNICIPALITIES TO WHICH CATV SERVICE WILL BE PROVIDED OR EXTENDED, THE ANTICIPATED CONSTRUCTION AND DEPLOYMENT DATES, AND THE ANTICIPATED DATE ON WHICH SERVICE WILL BE OFFERED AND A CERTIFIED STATEMENT THAT SUCH DEPLOYMENT WILL MEET THE REQUIREMENTS OF SECTION TWO HUNDRED FORTY-FOUR OF THIS ARTICLE. THE APPLICANT WILL CONCURRENTLY PROVIDE A COPY OF THE APPLICATION TO EACH AFFECTED MUNICIPALITY.

4. WITHIN FIFTEEN BUSINESS DAYS AFTER IT RECEIVES THE APPLICATION, THE COMMISSION SHALL:

(A) DETERMINE WHETHER AN APPLICATION SUBMITTED IS INCOMPLETE; AND

(B) IF SO, THE COMMISSION SHALL NOTIFY THE APPLICANT THAT THE APPLICATION IS INCOMPLETE AND IDENTIFY THE INFORMATION THAT THE COMMISSION MUST RECEIVE FROM THE APPLICANT TO MAKE THE APPLICATION COMPLETE.

5. WITHIN SIXTY BUSINESS DAYS AFTER IT RECEIVES THE COMPLETED APPLICATION, THE COMMISSION SHALL APPROVE THE APPLICATION AND ISSUE A STATEWIDE FRANCHISE TO THE APPLICANT, OR DENY THE APPLICATION. WITHIN SIXTY DAYS OF THE RECEIPT THEREOF, THE COMMISSION SHALL SCHEDULE THREE PUBLIC HEARINGS TO BE HELD IN DIFFERENT GEOGRAPHICAL AREAS OF THE STATE TO GAIN PUBLIC COMMENT IN CONSIDERATION OF THE APPLICATION. ON OR BEFORE THE EXPIRATION OF THE SIXTY-DAY PERIOD, THE COMMISSION SHALL ISSUE AN ORDER IN WRITING APPROVING THE APPLICATION IF THE APPLICANT HAS COMPLIED WITH THE REQUIREMENTS FOR A STATEWIDE FRANCHISE, OR THE COMMISSION SHALL DISAPPROVE THE APPLICATION IN WRITING CITING THE REASONS FOR DISAPPROVAL IF THE BOARD DETERMINES THAT THE APPLICATION FOR A STATEWIDE FRANCHISE DOES NOT COMPLY WITH THE REQUIREMENTS FOR A STATEWIDE FRANCHISE. THE COMMISSION MAY DENY THE APPLICATION IF THE APPLICANT HAS FAILED TO STATE IN THE APPLICATION THE INFORMATION AND REPRESENTATIONS REQUIRED BY SUBDIVISION TWO OF THIS SECTION. IF THE COMMISSION DENIES THE APPLICATION, IT MUST SPECIFY WITH PARTICULARITY THE REASON OR REASONS FOR THE DENIAL, AND THE APPLICANT MAY AMEND ITS APPLICATION TO CURE ANY DEFICIENCY. THE COMMISSION SHALL DECIDE SUCH AMENDED APPLICATION WITHIN TEN BUSINESS DAYS OF ITS SUBMISSION TO THE COMMISSION BY THE APPLICANT. IF THE COMMISSION DENIES THE APPLICATION, THE COMMISSION SHALL SCHEDULE A PUBLIC MEETING WITH THE APPLICANT TO EXPLAIN TO THE APPLICANT THE REASONS FOR THE COMMISSION'S DISAPPROVAL. SUCH MEETING SHALL BE SCHEDULED NO LATER THAN THIRTY DAYS FOLLOWING THE EXPIRATION OF THE SIXTY-DAY REVIEW PERIOD AS REQUIRED BY THIS SECTION. THE APPLICANT SHALL HAVE THIRTY DAYS FOLLOWING THE DATE OF THE MEETING WITH THE COMMISSION TO FILE AN APPEAL OF THE BOARD'S DECISION. THE COMMISSION SHALL THEREAFTER SCHEDULE AN ADMINISTRATIVE HEARING NOT LATER THAN THE THIRTIETH DAY FOLLOWING THE DATE OF THE FILING OF THE APPLICANT'S APPEAL IN ORDER TO CONSIDER THE APPLICANT'S APPEAL. THE COMMISSION SHALL ISSUE A FINAL DECISION IN WRITTEN FORM ON THE APPLICANT'S APPEAL NOT LATER THAN THE SIXTIETH DAY FOLLOWING THE ADMINISTRATIVE HEARING, REQUIRED BY THIS SUBDIVISION, ON THE APPLICANT'S APPEAL. AFTER AN ADMINISTRATIVE PERIOD AN APPLICANT MAY CHALLENGE A DENIAL OF ITS APPLICATION OR AMENDED APPLICATION IN ANY COURT OF COMPETENT JURISDICTION.

6. A STATEWIDE FRANCHISE AUTHORIZATION ISSUED BY THE COMMISSION SHALL CONTAIN:

(A) A GRANT OF A FRANCHISE TO PROVIDE CABLE SERVICE IN THE SERVICE AREA FOOTPRINT DESCRIBED IN THE APPLICATION; TO CONSTRUCT, UPGRADE, OPERATE OR MAINTAIN A NETWORK CAPABLE OF PROVIDING SUCH SERVICE, EXCEPT

1 WHERE THIS GRANT IS NOT REQUIRED AND TO USE AND OCCUPY THE PUBLIC
2 RIGHTS-OF-WAY IN THE DELIVERY OF THAT SERVICE; AND

3 (B) A STATEMENT THAT THE FRANCHISE GRANT IN SUBDIVISION ONE OF THIS
4 SECTION IS SUBJECT TO LAWFUL OPERATION OF THE CABLE SERVICE BY THE
5 APPLICANT OR ITS SUCCESSOR IN INTEREST.

6 7. AN APPLICANT HAVING PRE-EXISTING AUTHORITY TO UTILIZE THE PUBLIC
7 RIGHTS-OF-WAY IS REQUIRED TO OBTAIN A STATEWIDE FRANCHISE PRIOR TO THE
8 ACTUAL PROVISION OF CABLE SERVICE ON A COMMERCIAL BASIS DIRECTLY TO
9 SUBSCRIBERS. HOWEVER, SUCH AN APPLICANT IS NOT REQUIRED TO OBTAIN A
10 STATEWIDE FRANCHISE OR ANY MUNICIPALITY AUTHORIZATION, EXCEPT FOR BEING
11 SUBJECT TO MUNICIPALITY RIGHT-OF-WAY REQUIREMENTS, IN ORDER TO
12 CONSTRUCT, UPGRADE, OPERATE OR MAINTAIN A NETWORK THAT IS CAPABLE OF
13 PROVIDING CABLE SERVICE.

14 8. A SYSTEM-WIDE FRANCHISE ISSUED BY THE BOARD SHALL BE NONTRANSFERA-
15 BLE, EXCEPT BY WRITTEN CONSENT OF THE BOARD.

16 S 235. LENGTH OF STATEWIDE FRANCHISE. A STATEWIDE FRANCHISE ISSUED BY
17 THE COMMISSION SHALL BE VALID FOR TEN YEARS FROM THE DATE OF ISSUANCE.
18 RENEWAL OF A SYSTEMWIDE FRANCHISE SHALL BE VALID FOR A PERIOD OF FIFTEEN
19 YEARS FROM THE DATE OF THE RENEWAL ISSUANCE, AND THE COMMISSION SHALL
20 ESTABLISH RULES GOVERNING THE RENEWAL OF A SYSTEMWIDE FRANCHISE.

21 S 236. TERMINATION OF A STATEWIDE FRANCHISE. 1. A FRANCHISE SHALL
22 TERMINATE AT THE EXPIRATION OF ITS TERM OR OTHERWISE IN ACCORDANCE WITH
23 THE PROVISIONS THEREOF, UNLESS, PRIOR THERETO, THE COMMISSION OTHERWISE
24 ORDERS. THE COMMISSION MAY SO ORDER ONLY IF IT FINDS, AFTER PUBLIC
25 NOTICE AND OPPORTUNITY FOR A HEARING, THAT THE FRANCHISEE:

26 (A) HAS COMMITTED A MATERIAL BREACH OF ITS FRANCHISE OR ANY APPLICABLE
27 PROVISION OF THIS ARTICLE OR OF THE REGULATIONS PROMULGATED HEREUNDER
28 AND HAS FAILED, WITHOUT REASONABLE JUSTIFICATION, TO CURE SAID BREACH
29 WITHIN SIXTY DAYS AFTER HAVING RECEIVED WRITTEN NOTICE THEREOF FROM THE
30 COMMISSION; OR

31 (B) HAS NOT MET THE REQUIREMENTS OF SECTIONS TWO HUNDRED FORTY-THREE
32 AND TWO HUNDRED FORTY-FOUR OF THIS ARTICLE;

33 (C) HAS ENGAGED IN BLOCKING OF LAWFUL CONTENT ON WEB SITES OR SERVICES
34 OF COMPETITORS, OR REFUSED TO INTERCONNECT ITS FACILITIES WITH THE
35 FACILITIES OF ANOTHER PROVIDER OF BROADBAND NETWORK SERVICES ON REASON-
36 ABLE AND NONDISCRIMINATORY TERMS OR CONDITIONS; OR

37 (D) HAS BEEN ADJUDICATED A BANKRUPT OR HAS FILED A VOLUNTARY PETITION
38 FOR BANKRUPTCY OR REORGANIZATION OR FOR AN ORDER PROTECTING ITS ASSETS
39 FROM THE CLAIMS OF CREDITORS AND THE COMMISSION FINDS THAT TERMINATION
40 OF THE FRANCHISE OR CERTIFICATE OF CONFIRMATION UNDER SUCH CONDITIONS IS
41 IN THE BEST INTEREST OF THE PUBLIC.

42 2. UPON TERMINATION OF A FRANCHISE OR CERTIFICATE OF CONFIRMATION, THE
43 CABLE OPERATOR SHALL DISPOSE OF ITS FACILITIES IN ACCORDANCE WITH THE
44 PROVISIONS OF THE FRANCHISE OR CERTIFICATE. HOWEVER, ON MOTION OF ANY
45 INTERESTED PARTY OR UPON ITS OWN MOTION, AND AFTER PUBLIC NOTICE AND
46 OPPORTUNITY FOR HEARING, IF THE COMMISSION FINDS THAT THE CONTINUED
47 PRESENCE OF THE FACILITIES IN ANY PUBLIC THOROUGHFARE WOULD POSE A
48 NUISANCE TO THE MUNICIPALITY OR ITS RESIDENTS, THE OPERATOR SHALL REMOVE
49 ITS FACILITIES WITHIN SUCH PERIOD AS THE COMMISSION SHALL ORDER. IN THE
50 ABSENCE OF ANY APPLICABLE FRANCHISE OR CERTIFICATE PROVISION OR ORDER BY
51 THE COMMISSION TO THE CONTRARY, THE CABLE TELEVISION COMPANY MAY ABANDON
52 ITS FACILITIES.

53 S 237. ABANDONMENT OF SERVICE. 1. NO CABLE OPERATOR MAY ABANDON ANY
54 SERVICE OR PORTION THEREOF WITHOUT GIVING SIX MONTHS' PRIOR WRITTEN
55 NOTICE TO THE COMMISSION AND TO THE FRANCHISOR, IF ANY, AND TO THE MUNI-
56 CIPALITIES IT SERVES.

2. WHEN ABANDONMENT OF ANY SERVICE IS PROHIBITED BY A FRANCHISE, NO CABLE OPERATOR MAY ABANDON SUCH SERVICE WITHOUT WRITTEN CONSENT OF THE COMMISSION. IN GRANTING SUCH CONSENT, THE COMMISSION MAY IMPOSE SUCH TERMS, CONDITIONS OR REQUIREMENTS AS IN ITS JUDGMENT ARE NECESSARY TO PROTECT THE PUBLIC INTEREST.

S 238. MUNICIPAL POWER AND REGULATION OVER FRANCHISE HOLDERS. A MUNICIPALITY MAY:

1. EXERCISE ITS PUBLIC RIGHTS-OF-WAY AUTHORITY OVER FRANCHISE HOLDERS, INCLUDING REQUIRING FRANCHISE HOLDERS TO FOLLOW MUNICIPAL ORDINANCES AS WELL AS ALL APPLICABLE LOCAL, STATE AND FEDERAL LAWS;

2. RECEIVE, MEDIATE, AND RESOLVE CABLE SERVICE QUALITY COMPLAINTS FROM A FRANCHISE HOLDER'S CUSTOMERS WITHIN THE MUNICIPALITY;

3. REQUIRE A FRANCHISE HOLDER WHO IS PROVIDING CABLE SERVICE WITHIN THE MUNICIPALITY TO REGISTER WITH THE MUNICIPALITY, MAINTAIN A POINT OF CONTACT, AND PROVIDE NOTICE OF ANY FRANCHISE AUTHORIZATION TRANSFER TO THE MUNICIPALITY WITHIN FOURTEEN BUSINESS DAYS AFTER THE COMPLETION OF THE TRANSFER;

4. ESTABLISH REASONABLE GUIDELINES REGARDING THE USE OF PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS CHANNELS WITHIN THE MUNICIPALITY IN ADDITION TO THOSE ESTABLISHED IN SECTION TWO HUNDRED FORTY-ONE OF THIS ARTICLE.

S 239. PAYMENT AND REMITTANCE OF FRANCHISE FEE. 1. THE FRANCHISE HOLDER WHO OFFERS CABLE SERVICE WITHIN THE JURISDICTION OF A MUNICIPALITY SHALL CALCULATE AND REMIT TO THE MUNICIPALITY AT THE END OF EACH CALENDAR YEAR QUARTER A FRANCHISE FEE, AS PROVIDED IN THIS SECTION. THE OBLIGATION TO CALCULATE AND REMIT THE FRANCHISE FEE TO A MUNICIPALITY BEGINS IMMEDIATELY UPON PROVISION OF CABLE SERVICE WITHIN THAT MUNICIPALITY'S JURISDICTION, BUT THE FIRST REMITTANCE SHALL NOT BE DUE UNTIL THE END OF THE FIRST CALENDAR YEAR QUARTER THAT IS LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE PROVISION OF CABLE SERVICE BEGAN.

2. THE FRANCHISE FEE SHALL BE CALCULATED AS A PERCENTAGE OF THE HOLDER'S GROSS REVENUES, AS DEFINED IN SECTION TWO HUNDRED THIRTY-ONE OF THIS ARTICLE AND SHALL BE FIVE PERCENT. A MUNICIPALITY MAY, BY ORDINANCE, CHANGE THE PERCENTAGE APPLIED TO THE GROSS REVENUES OF THE HOLDER.

3. NO FEE UNDER THIS SECTION WILL BECOME DUE UNTIL THE MUNICIPALITY CERTIFIES AND PROVIDES DOCUMENTATION TO THE FRANCHISE HOLDER SUPPORTING THE PERCENTAGE PAID BY ANY INCUMBENT CABLE OPERATOR SERVING THE AREA WITHIN THE MUNICIPALITY'S JURISDICTION.

4. NO MUNICIPALITY OR ANY OTHER POLITICAL SUBDIVISION OF THIS STATE MAY ASSESS ANY ADDITIONAL FEES OR CHARGES OR REQUIRE OTHER REMUNERATION OF ANY KIND FROM THE FRANCHISE HOLDER OTHER THAN AS SET FORTH IN THIS SECTION, PROVIDED, HOWEVER, THAT THE PROVISION OF IN-KIND SERVICES OR SUPPORT, PERSONNEL AND FUNDING DEDICATED TO PUBLIC, EDUCATIONAL AND GOVERNMENT FACILITIES AND SERVICES SHALL NOT BE CONSIDERED ADDITIONAL FEES, CHARGES OR REMUNERATION.

5. FOR PURPOSES OF THIS SECTION, IN THE CASE OF A CABLE SERVICE THAT MAY BE BUNDLED OR INTEGRATED FUNCTIONALLY WITH OTHER SERVICES, CAPABILITIES OR APPLICATIONS, THE FRANCHISE FEE SHALL BE APPLIED ONLY TO THE GROSS REVENUES, AS DEFINED IN THIS ARTICLE, ATTRIBUTABLE TO CABLE SERVICE OR THE USE OF THE CABLE SYSTEM AND FACILITIES, AS REFLECTED ON THE BOOKS AND RECORDS OF THE HOLDER IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND FEDERAL COMMUNICATIONS COMMISSION RULES, REGULATIONS, STANDARDS OR ORDERS, AS APPLICABLE.

6. THE FRANCHISE FEE SHALL BE REMITTED TO THE APPLICABLE MUNICIPALITY QUARTERLY, WITHIN FORTY-FIVE DAYS AFTER THE END OF THE QUARTER FOR THE

1 PRECEDING CALENDAR QUARTER. EACH PAYMENT SHALL BE ACCOMPANIED BY A
2 SUMMARY EXPLAINING THE BASIS FOR THE CALCULATION OF THE FRANCHISE FEE.
3 NOT MORE THAN ONCE ANNUALLY, A MUNICIPALITY MAY EXAMINE THE FRANCHISE
4 HOLDER'S BUSINESS RECORDS TO THE EXTENT REASONABLY NECESSARY TO ENSURE
5 COMPENSATION IN ACCORDANCE WITH THIS SECTION. EACH PARTY SHALL BEAR THE
6 PARTY'S OWN COSTS OF THE EXAMINATION. ANY CLAIMS BY A MUNICIPALITY THAT
7 COMPENSATION IS NOT IN ACCORDANCE WITH THIS SECTION, AND ANY CLAIMS FOR
8 REFUNDS OR OTHER CORRECTIONS TO THE REMITTANCE OF THE FRANCHISE HOLDER,
9 MUST BE MADE WITHIN THREE YEARS AND FORTY-FIVE DAYS OF THE END OF THE
10 QUARTER FOR WHICH COMPENSATION IS REMITTED, OR THREE YEARS FROM THE DATE
11 OF REMITTANCE, WHICHEVER IS LATER. EITHER A MUNICIPALITY OR THE FRAN-
12 CHISE HOLDER MAY, IN THE EVENT OF A DISPUTE CONCERNING COMPENSATION
13 UNDER THIS SECTION, BRING AN ACTION IN A COURT OF COMPETENT JURISDIC-
14 TION.

15 S 240. PUBLIC, EDUCATIONAL AND GOVERNMENT CHANNELS. 1. IN ADDITION TO
16 THE REQUIREMENTS SET FORTH IN 16 NYCRR SEC. 894.4 (AS MAY BE AMENDED
17 FROM TIME TO TIME), THE FRANCHISE HOLDER SHALL PROVIDE THE MUNICIPALITY
18 WITH CAPACITY IN ITS CABLE SYSTEM TO ALLOW PUBLIC, EDUCATIONAL, AND
19 GOVERNMENTAL (PEG) ACCESS CHANNELS FOR NONCOMMERCIAL PROGRAMMING. FOR
20 THE PURPOSES OF THIS SECTION, PEG CHANNELS SHALL BE DEFINED AS ANALOG
21 CHANNELS OF SIX MEGAHERTZ BANDWIDTH OR THE SAME AS ANY OTHER CHANNEL ON
22 THE BASIC TIER, WHICHEVER IS GREATER. IN ADDITION TO THE REQUIREMENTS
23 SET FORTH IN THIS SECTION, THE COMMISSION MAY ISSUE ADDITIONAL RULES OR
24 GUIDELINES REGARDING PEG ACCESS CHANNELS. THE HOLDER SHALL PROVIDE THE
25 SAME ANCILLARY SERVICES TO THE PEG CHANNELS AND ENTITIES AS THE INCUM-
26 BENT PROVIDER.

27 2. THE FRANCHISE HOLDER SHALL DESIGNATE A SUFFICIENT AMOUNT OF CAPACI-
28 TY ON ITS CABLE SYSTEM TO ALLOW THE PROVISION OF A COMPARABLE NUMBER OF
29 PEG CHANNELS OR HOURS OF PROGRAMMING THAT THE INCUMBENT CABLE OPERATOR
30 HAS ACTIVATED AND PROVIDED WITHIN THE MUNICIPALITY UNDER THE TERMS OF
31 ITS FRANCHISE AGREEMENT AS OF THE EFFECTIVE DATE OF THIS ARTICLE. IF A
32 MUNICIPALITY DID NOT HAVE PEG ACCESS CHANNELS AS OF THAT DATE, THE CABLE
33 OPERATOR SHALL FURNISH TO THE MUNICIPALITY UPON REQUEST UP TO THREE PEG
34 CHANNELS FOR A MUNICIPALITY WITH A POPULATION OF AT LEAST FIFTY THOUSAND
35 AND UP TO TWO PEG CHANNELS FOR A MUNICIPALITY WITH A POPULATION OF LESS
36 THAN FIFTY THOUSAND. FOR THE PURPOSES OF THIS SECTION, A PEG CHANNEL IS
37 DEEMED ACTIVATED IF IT IS BEING UTILIZED FOR PEG PROGRAMMING WITHIN THE
38 MUNICIPALITY FOR AT LEAST EIGHT HOURS PER DAY AND IF SUCH PROGRAMMING IS
39 NOT BROADCAST MORE THAN ONCE IN EVERY EIGHT HOURS. THE HOLDER SHALL HAVE
40 TWELVE MONTHS FROM THE DATE THE MUNICIPALITY REQUESTS SUCH PEG CHANNELS
41 TO DESIGNATE THE CAPACITY; PROVIDED, HOWEVER, THAT THE TWELVE-MONTH
42 PERIOD SHALL BE TOLLED BY ANY PERIOD DURING WHICH THE DESIGNATION OR
43 PROVISION OF PEG CHANNEL CAPACITY IS TECHNICALLY INFEASIBLE, INCLUDING
44 ANY FAILURE OR DELAY OF THE INCUMBENT CABLE OPERATOR TO MAKE ADEQUATE
45 INTERCONNECTION AVAILABLE, AS REQUIRED BY THIS SECTION. IN CITIES WITH A
46 POPULATION OF ONE MILLION OR MORE PERSONS, IF A SYSTEM HAS TOTAL ACTI-
47 VATED BANDWIDTH IN EXCESS OF EIGHT HUNDRED SIXTY-TWO MEGAHERTZ THEN AT
48 LEAST TWO ADDITIONAL PEG CHANNELS SHALL BE SET ASIDE BY THE HOLDER,
49 INCLUDING ONE FOR PUBLIC ACCESS.

50 3. THE FRANCHISE HOLDER MAY SUBMIT TO THE COMMISSION AN APPLICATION TO
51 CEASE PROVIDING ANY PEG CHANNEL PROVIDED PURSUANT TO THIS SECTION THAT
52 IS NOT UTILIZED BY THE MUNICIPALITY FOR AT LEAST EIGHT HOURS PER DAY,
53 AND EXCEPT AS PROVIDED HEREIN, THE CHANNEL MAY THEREAFTER BE PROGRAMMED
54 AT THE FRANCHISE HOLDER'S DISCRETION. THE COMMISSION MAY HOLD A HEARING
55 IN THE MUNICIPALITY TO AID IN MAKING ITS DETERMINATION WHETHER TO
56 APPROVE THE APPLICATION. THE COMMISSION SHALL ISSUE A DECISION WITHIN

THIRTY BUSINESS DAYS OF THE FRANCHISEE'S APPLICATION. IF THE MUNICIPALITY SUBSEQUENTLY CERTIFIES TO THE COMMISSION AND HOLDER A SCHEDULE FOR AT LEAST EIGHT HOURS OF DAILY NON-REPEAT PEG CHANNEL PROGRAMMING PER CHANNEL, THE HOLDER SHALL RESTORE THE PEG CHANNEL OR CHANNELS FOR THE USE OF THE MUNICIPALITY FOR AS LONG AS THE MUNICIPALITY USES THE CHANNEL OR CHANNELS FOR AT LEAST EIGHT HOURS A DAY.

4. THE CONTENT AND OPERATION OF ANY PEG ACCESS CHANNEL PROVIDED PURSUANT TO THIS SECTION SHALL BE THE RESPONSIBILITY OF THE MUNICIPALITY, RECEIVING THE BENEFIT OF SUCH CHANNEL, AND THE FRANCHISE HOLDER BEARS ONLY THE RESPONSIBILITY FOR THE TRANSMISSION OF SUCH CHANNEL, SUBJECT TO REASONABLE TECHNOLOGICAL CONSTRAINTS. THE FRANCHISE HOLDER SHALL BE RESPONSIBLE FOR PROVIDING THE CONNECTIVITY, AS WELL AS OTHER EQUIPMENT NECESSARY, TO EACH PEG ACCESS CHANNEL PROGRAMMING DISTRIBUTION LOCATION AND FOR DOING SO WITHOUT CHARGE FOR UP TO THE FIRST TWO HUNDRED FEET OF THE HOLDER'S CONNECTING FACILITIES.

5. THE MUNICIPALITY, OR ITS DESIGNEES, MUST ENSURE THAT ALL TRANSMISSIONS, CONTENT, OR PROGRAMMING TO BE TRANSMITTED OVER A PEG ACCESS CHANNEL OR FACILITY BY A FRANCHISE HOLDER ARE PROVIDED OR SUBMITTED TO THE CABLE OPERATOR IN A MANNER OR FORM THAT IS CAPABLE OF BEING ACCEPTED AND TRANSMITTED BY THE CABLE OPERATOR, WITHOUT REQUIREMENT FOR ADDITIONAL ALTERATION OR CHANGE IN THE CONTENT BY THE CABLE OPERATOR, OVER THE CABLE SYSTEM OF THE CABLE OPERATOR. THE MUNICIPALITY'S, OR ITS DESIGNEES' PROVISION OF PEG CONTENT TO THE HOLDER SHALL CONSTITUTE AUTHORIZATION FOR THE HOLDER TO CARRY SUCH CONTENT INCLUDING, AT THE HOLDER'S OPTION, BEYOND THE JURISDICTIONAL BOUNDARIES OF THE MUNICIPALITY.

6. THE FRANCHISE HOLDER AND AN INCUMBENT CABLE OPERATOR SHALL USE REASONABLE EFFORTS TO INTERCONNECT THEIR CABLE SYSTEMS FOR THE PURPOSE OF PROVIDING PEG PROGRAMMING. INTERCONNECTION MAY BE ACCOMPLISHED BY DIRECT CABLE, MICROWAVE LINK, SATELLITE, OR OTHER REASONABLE METHOD OF CONNECTION. FRANCHISE HOLDERS AND INCUMBENT CABLE OPERATORS SHALL NEGOTIATE IN GOOD FAITH AND INCUMBENT CABLE OPERATORS MAY NOT WITHHOLD INTERCONNECTION OF PEG CHANNELS. IN THE EVENT A FRANCHISE HOLDER AND AN INCUMBENT CABLE OPERATOR CANNOT REACH A MUTUALLY ACCEPTABLE INTERCONNECTION AGREEMENT, THEN THE DUTY OF THE HOLDER SHALL BE DISCHARGED IF THE HOLDER MAKES INTERCONNECTION AVAILABLE TO THE CHANNEL ORIGINATOR AT A POINT ON THE HOLDER'S NETWORK DETERMINED BY THE HOLDER.

7. THE PEG CHANNELS SHALL BE FOR THE EXCLUSIVE USE OF THE LOCAL ENTITY OR ITS DESIGNEE TO PROVIDE PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNELS. THE PEG CHANNELS SHALL BE USED ONLY FOR NONCOMMERCIAL PURPOSES. HOWEVER, ADVERTISING, UNDERWRITING, OR SPONSORSHIP RECOGNITION MAY BE CARRIED ON THE CHANNELS FOR THE PURPOSE OF FUNDING PEG-RELATED ACTIVITIES. THE PEG CHANNELS SHALL ALL BE CARRIED ON THE BASIC SERVICE TIER. TO THE EXTENT FEASIBLE, THE PEG CHANNELS SHALL NOT BE SEPARATED NUMERICALLY FROM OTHER CHANNELS CARRIED ON THE BASIC SERVICE TIER AND THE CHANNEL NUMBERS FOR THE PEG CHANNELS SHALL BE THE SAME CHANNEL NUMBERS USED BY THE INCUMBENT CABLE OPERATOR UNLESS PROHIBITED BY FEDERAL LAW. AFTER THE INITIAL DESIGNATION OF PEG CHANNEL NUMBERS, THE CHANNEL NUMBERS SHALL NOT BE CHANGED WITHOUT THE AGREEMENT OF THE LOCAL ENTITY UNLESS THE CHANGE IS REQUIRED BY FEDERAL LAW. EACH CHANNEL SHALL BE CAPABLE OF CARRYING A NATIONAL TELEVISION SYSTEM COMMITTEE (NTSC) TELEVISION SIGNAL.

8. THE CONTENT TO BE PROVIDED OVER THE PEG CHANNEL CAPACITY PROVIDED PURSUANT TO THIS SECTION SHALL BE THE RESPONSIBILITY OF THE LOCAL ENTITY OR ITS DESIGNEE RECEIVING THE BENEFIT OF THAT CAPACITY, AND THE HOLDER

1 OF A STATE FRANCHISE BEARS ONLY THE RESPONSIBILITY FOR THE TRANSMISSION
2 OF THAT CONTENT, SUBJECT TO TECHNOLOGICAL RESTRAINTS.

3 9. THE PEG SIGNAL SHALL BE RECEIVABLE BY ALL SUBSCRIBERS, WHETHER THEY
4 RECEIVE DIGITAL OR ANALOG SERVICE, OR A COMBINATION THEREOF, WITHOUT THE
5 NEED FOR ANY EQUIPMENT OTHER THAN THE EQUIPMENT NECESSARY TO RECEIVE THE
6 LOWEST COST TIER OF SERVICE. THE PEG ACCESS CAPACITY PROVIDED SHALL BE
7 OF SIMILAR QUALITY AND FUNCTIONALITY TO THAT OFFERED BY COMMERCIAL CHAN-
8 NELS ON THE LOWEST COST TIER OF SERVICE UNLESS THE SIGNAL IS PROVIDED TO
9 THE HOLDER AT A LOWER QUALITY OR WITH LESS FUNCTIONALITY.

10 10. AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN, AND UNTIL THE EXPIRA-
11 TION OF THE INCUMBENT CABLE OPERATOR'S FRANCHISE, IF THE INCUMBENT CABLE
12 OPERATOR HAS EXISTING UNSATISFIED OBLIGATIONS UNDER THE FRANCHISE TO
13 REMIT TO THE LOCAL ENTITY OR ITS DESIGNEE ANY CASH PAYMENTS FOR THE
14 ONGOING COSTS OF PUBLIC, EDUCATIONAL, AND GOVERNMENT ACCESS CHANNEL
15 FACILITIES, THE LOCAL ENTITY, OR ITS DESIGNEE FOR THE PUBLIC ACCESS
16 CHANNELS, SHALL DIVIDE THOSE CASH PAYMENTS AMONG ALL CABLE OR VIDEO
17 PROVIDERS AS PROVIDED IN THIS SECTION. THE FEE SHALL BE THE HOLDER'S PRO
18 RATA PER SUBSCRIBER SHARE OF THE CASH PAYMENT REQUIRED TO BE PAID BY THE
19 INCUMBENT CABLE OPERATOR TO THE LOCAL ENTITY OR ITS DESIGNEE COMMUNITY
20 ACCESS ORGANIZATION FOR THE COSTS OF PEG CHANNEL FACILITIES. ALL VIDEO
21 SERVICE PROVIDERS AND THE INCUMBENT CABLE OPERATOR SHALL BE SUBJECT TO
22 THE SAME REQUIREMENTS FOR RECURRING PAYMENTS FOR THE SUPPORT OF PEG
23 CHANNEL FACILITIES, WHETHER EXPRESSED AS A PERCENTAGE OF GROSS REVENUE
24 OR AS AN AMOUNT PER SUBSCRIBER, PER MONTH, OR OTHERWISE.

25 11. A LOCAL ENTITY SHALL ESTABLISH A PAYMENT FOR THE ONGOING SUPPORT
26 OF THE COST OF PEG FACILITIES AND SERVICES THAT WOULD BECOME EFFECTIVE
27 SUBSEQUENT TO THE EXPIRATION OF ANY FEE IMPOSED BY THIS ARTICLE,
28 PROVIDED, HOWEVER, THAT NO SUCH FEE SHALL BE ALLOCATED SUCH THAT ANY
29 COMMUNITY ACCESS ORGANIZATION IS RECEIVING ANYTHING LESS THAN WHAT IT IS
30 RECEIVING FROM THE CABLE OPERATOR ON THE EFFECTIVE DATE OF THIS LEGIS-
31 LATION, AND PROVIDED, HOWEVER, THAT EVERY LOCAL ENTITY SHALL BE ENTITLED
32 TO A PAYMENT OF NOT LESS THAN TWO PERCENT FROM THE HOLDER OF A STATE
33 FRANCHISE FOR THE ONGOING SUPPORT OF THE COST OF PEG FACILITIES AND
34 SERVICES. IF, ON DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTEEN, A LOCAL
35 ENTITY OR ITS DESIGNEE WAS IMPOSING A SEPARATE FEE TO SUPPORT PEG CHAN-
36 NEL FACILITIES THAT IS IN EXCESS OF TWO PERCENT, THAT ENTITY OR ITS
37 DESIGNEE MAY ESTABLISH A FEE NO GREATER THAN THAT SEPARATE FEE, AND IN
38 NO EVENT GREATER THAN THREE PERCENT, TO SUPPORT PEG ACTIVITIES. IF THE
39 PEG SUPPORT FEE IMPOSED BY A LOCAL ENTITY OR ITS DESIGNEE IS EXPRESSED
40 IN A MANNER OTHER THAN AS A PERCENTAGE OF GROSS REVENUES, THE LOCAL
41 ENTITY OR ITS DESIGNEE COMMUNITY ACCESS ORGANIZATION MAY CONVERT THAT
42 FEE TO A CURRENTLY EQUIVALENT PERCENTAGE OF GROSS REVENUES AT ANY TIME.
43 THE LOCAL ENTITY OR ITS DESIGNEE MAY ADOPT REQUIREMENTS FOR THE
44 PROVISION OF PEG-RELATED IN-KIND RESOURCES BY ALL CABLE AND VIDEO
45 SERVICE PROVIDERS.

46 12. RULES AND REGULATIONS ADOPTED BY THE COMMUNITY ACCESS ORGANIZATION
47 SHALL GOVERN THE USE OF ANY CHANNEL TIME ON THE PUBLIC CHANNELS AS WELL
48 AS THE EQUIPMENT, FACILITIES AND SERVICES RELATED TO THE PUBLIC CHAN-
49 NELS.

50 13. THE COMMISSION, THROUGH AN ADMINISTRATIVE PROCEEDING SHALL HAVE
51 THE ORIGINAL JURISDICTION TO ENFORCE ANY REQUIREMENTS UNDER THIS SECTION
52 TO RESOLVE ANY DISPUTE REGARDING THE REQUIREMENTS SET FORTH IN THIS
53 SECTION. AFTER THE ADMINISTRATIVE PROCESS IS EXHAUSTED, A COURT OF
54 COMPETENT JURISDICTION SHALL HAVE JURISDICTION TO ENFORCE ANY REQUIRE-
55 MENT UNDER THIS SECTION OR RESOLVE ANY DISPUTE REGARDING THE REQUIRE-
56 MENTS SET FORTH IN THIS SECTION, AND NO CABLE OPERATOR MAY BE BARRED

FROM THE PROVISION OF CABLE SERVICE OR BE REQUIRED TO TERMINATE CABLE SERVICE AS A RESULT OF SUCH DISPUTE OR ENFORCEMENT ACTION.

S 241. CABLE OPERATOR'S COMMUNITY COMMITMENT. 1. CABLE OPERATORS SHALL INSTALL AND RETAIN OR PROVIDE, WITHOUT CHARGE, ONE SERVICE OUTLET ACTIVATED FOR BASIC SERVICE TO ANY AND ALL FIRE STATIONS, PUBLIC SCHOOLS, POLICE STATIONS, PUBLIC LIBRARIES AND OTHER SUCH BUILDINGS USED FOR MUNICIPAL PURPOSES.

2. CABLE OPERATORS SHALL PROVIDE INTERNET SERVICE, WITHOUT CHARGE, THROUGH ONE SERVICE OUTLET ACTIVATED FOR BASIC SERVICE TO ANY AND ALL FIRE STATIONS, PUBLIC SCHOOLS, POLICE STATIONS, PUBLIC LIBRARIES, AND OTHER SUCH BUILDING USED FOR MUNICIPAL PURPOSES.

S 242. CONSUMER PROTECTION RULES. 1. EVERY CABLE OPERATOR SHALL PROVIDE SAFE, ADEQUATE AND RELIABLE SERVICE IN ACCORDANCE WITH APPLICABLE LAWS, REGULATIONS, AND FRANCHISE REQUIREMENTS. CABLE OPERATORS WITH A STATEWIDE FRANCHISE ARE SUBJECT TO THE REQUIREMENTS UNDER SECTIONS TWO HUNDRED TWENTY-FOUR AND TWO HUNDRED TWENTY-FOUR-A OF THIS CHAPTER AND ANY OTHER CUSTOMER SERVICE STANDARDS PERTAINING TO THE PROVISION OF VIDEO SERVICE ESTABLISHED BY FEDERAL LAW OR REGULATION OR ADOPTED BY SUBSEQUENT ENACTMENT OF THE LEGISLATURE. ALL CUSTOMER SERVICE AND CONSUMER PROTECTION STANDARDS UNDER THIS SECTION SHALL BE INTERPRETED AND APPLIED TO ACCOMMODATE NEWER OR DIFFERENT TECHNOLOGIES WHILE MEETING OR EXCEEDING THE GOALS OF THESE STANDARDS.

2. IN ADDITION, CABLE OPERATORS:

(A) SHALL CLEARLY AND CONSPICUOUSLY DISCLOSE TO USERS, IN PLAIN LANGUAGE, ACCURATE INFORMATION CONCERNING ANY TERMS, CONDITIONS, OR LIMITATIONS ON THE BROADBAND NETWORK SERVICE THEY OFFER, THE SPEEDS OF THE DOWNLOAD AND UPLOADING SPEEDS OF THE PROVIDER'S INTERNET SERVICE;

(B) PROVIDE THEIR BROADBAND NETWORK SERVICES ON REASONABLE AND NONDISCRIMINATORY TERMS AND CONDITIONS SUCH THAT ANY PERSON CAN OFFER OR PROVIDE CONTENT, APPLICATIONS, OR SERVICES TO OR OVER THE NETWORK IN A MANNER THAT IS AT LEAST EQUAL TO THE MANNER IN WHICH THE PROVIDER OR ITS AFFILIATES OFFER CONTENT, APPLICATIONS, AND SERVICES, FREE OF ANY SURCHARGE ON THE BASIS OF THE CONTENT, APPLICATION, OR SERVICE;

(C) INTERCONNECT THEIR FACILITIES WITH THE FACILITIES OF OTHER PROVIDERS OF BROADBAND NETWORK SERVICES ON REASONABLE AND NONDISCRIMINATORY TERMS OR CONDITIONS.

S 243. NEUTRAL INTERNET AND BROADBAND NETWORKS. 1. CABLE OPERATORS SHALL NOT:

(A) BLOCK, IMPAIR, DISCRIMINATE AGAINST, OR INTERFERE WITH THE ABILITY OF ANY PERSON TO USE INTERNET BASED TRAFFIC BASED ON THE SOURCE, DESTINATION, OR OWNERSHIP OF THE INTERNET TRAFFIC THAT CARRIES VIDEO SERVICE, IN A MANNER THAT DEGRADES OR OTHERWISE NEGATIVELY IMPACTS THE ACCESS TO, OR THE QUALITY OF SERVICES RECEIVED BY AN END USER;

(B) ENGAGE IN ANY EXCLUSIVE OR PREFERENTIAL DEALINGS REGARDING THE CARRIAGE AND TREATMENT OF INTERNET TRAFFIC, INCLUDING, BUT NOT LIMITED TO, TRAFFIC THAT CARRIES VIDEO PROGRAMMING OR VIDEO SERVICE, WITH AN AFFILIATE OR THIRD PARTY PROVIDER OF INTERNET APPLICATIONS, SERVICES, CONTENT, OR VIDEO SERVICES;

(C) IMPOSE AN ADDITIONAL CHARGE TO AVOID ANY CONDUCT THAT IS PROHIBITED BY THIS SECTION;

(D) PROHIBIT A USER FROM ATTACHING OR USING A DEVICE ON THE PROVIDER'S INTERNET OR BROADBAND NETWORK THAT DOES NOT PHYSICALLY DAMAGE OR MATERIALLY DEGRADE OTHER USERS' UTILIZATION OF THE NETWORK.

2. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREVENT A BROADBAND OR INTERNET NETWORK PROVIDER FROM TAKING REASONABLE AND NONDISCRIMINATORY MEASURES:

1 (A) TO MANAGE THE FUNCTIONING OF ITS NETWORK TO PROTECT THE SECURITY
2 AND TO OFFER PARENTAL CONTROLS AND OTHER CONSUMER PROTECTION MEASURES OF
3 SUCH NETWORK AND BROADBAND OR INTERNET NETWORK SERVICES IF SUCH MANAGE-
4 MENT DOES NOT RESULT IN DISCRIMINATION AMONG THE CONTENT, APPLICATIONS,
5 OR SERVICES ON THE NETWORK;

6 (B) TO GIVE PRIORITY TO EMERGENCY COMMUNICATIONS; OR

7 (C) TO PREVENT A VIOLATION OF A FEDERAL OR STATE LAW, OR TO COMPLY
8 WITH AN ORDER OF A COURT TO ENFORCE SUCH LAW, OR SUCH OTHER ACTION
9 AGAINST NETWORK THREATS AS MAY BE AUTHORIZED IN SECTION TWO HUNDRED
10 FIFTEEN OF THIS CHAPTER.

11 S 244. DEPLOYMENT REQUIREMENTS FOR STATEWIDE CABLE FRANCHISE. 1. AS
12 PART OF ANY FRANCHISE ISSUED BY THE COMMISSION IN THIS ARTICLE, A CABLE
13 OPERATOR SHALL BE REQUIRED TO:

14 (A) BEGIN PROVIDING CABLE SERVICE ON A COMMERCIAL BASIS, WITHIN THREE
15 YEARS OF ISSUANCE OF THE SYSTEM-WIDE FRANCHISE, IN:

16 (I) EACH COUNTY SEAT THAT IS WITHIN THE CATV COMPANY'S SERVICE AREA;
17 AND

18 (II) EACH MUNICIPALITY WITHIN THE CATV COMPANY'S SERVICE AREA THAT HAS
19 A POPULATION DENSITY GREATER THAN SEVENTY-ONE HUNDRED ELEVEN PERSONS PER
20 SQUARE MILE OF LAND AREA, AS DETERMINED BY THE MOST RECENT FEDERAL
21 DECENNIAL CENSUS, PROVIDED, HOWEVER, THAT IF SUCH COUNTY SEATS ARE NOT
22 LOCATED WITHIN OR CONTIGUOUS TO SUCH MUNICIPALITIES, EACH SUCH COUNTY
23 SEAT SHALL BE INTERCONNECTED TO THE NEAREST MUNICIPALITY WITH A POPU-
24 LATION DENSITY GREATER THAN PERSONS PER SQUARE MILE OF LAND AREA BY THE
25 CABLE OPERATOR; AND

26 (B) MAKE CABLE TELEVISION SERVICE AVAILABLE THROUGHOUT THE RESIDENTIAL
27 AREAS ON A COMMERCIAL BASIS, BEFORE THE BEGINNING OF THE SIXTH YEAR
28 AFTER THE ISSUANCE OF THE SYSTEM-WIDE FRANCHISE, IN:

29 (I) EACH MUNICIPALITY WITHIN THE STATE THAT HAS A POPULATION DENSITY
30 GREATER THAN FIVE HUNDRED ONE PERSONS PER SQUARE MILE OF LAND AREA, AS
31 DETERMINED BY THE MOST RECENT FEDERAL DECENNIAL CENSUS; AND

32 (II) THROUGHOUT THE RESIDENTIAL AREAS OF ANY MUNICIPALITIES SERVED BY
33 CENTRAL OFFICES LOCATED WITHIN A COUNTY SEAT WITHIN THE FRANCHISEE'S
34 SERVICE AREA, SUBJECT TO THE CABLE OPERATOR'S LINE EXTENSION POLICY;
35 PROVIDED, HOWEVER, A CATV COMPANY MAY APPLY TO THE COMMISSION FOR AN
36 EXEMPTION FROM THIS REQUIREMENT IF THE BOARD FINDS, AFTER CONDUCTING A
37 HEARING WITH FULL NOTICE AND OPPORTUNITY TO BE HEARD, THAT THE AREAS IN
38 QUESTION ARE AREAS IN WHICH THE CATV COMPANY IS UNABLE TO ACCESS THE
39 PUBLIC RIGHTS-OF-WAY UNDER REASONABLE TERMS AND CONDITIONS.

40 2. THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION SHALL ONLY
41 APPLY TO CABLE OPERATORS THAT ON THE DATE OF THE ISSUANCE OF THE
42 SYSTEM-WIDE FRANCHISE PROVIDE MORE THAN FORTY PERCENT OF THE LOCAL
43 EXCHANGE TELEPHONE SERVICE MARKET IN THIS STATE; AND TO CABLE OPERATORS
44 THAT ON THE DATE OF THE ISSUANCE OF THE SYSTEM-WIDE FRANCHISE PROVIDE
45 TWO HUNDRED FIFTY THOUSAND OR MORE LOCAL EXCHANGE TELEPHONE LINES IN
46 THIS STATE;

47 3. INCUMBENT CABLE COMPANIES THAT BECOME STATEWIDE FRANCHISE HOLDERS
48 SHALL NOT REDUCE THE NUMBER OR PERCENTAGE OF HOUSEHOLDS SERVED; WILL
49 BUILD OUT TO ALL RESIDENTIAL HOUSEHOLDS SUBJECT TO THE OPERATOR'S LINE
50 EXTENSION POLICY WITHIN THREE YEARS; AND WILL UPGRADE THEIR FACILITIES
51 TO THE ENTIRE SERVICE AREA WITHIN THREE YEARS OF THE DATE THE CABLE
52 OPERATOR UPGRADES ANY PART OF ITS FACILITIES.

53 4. WITHIN THREE YEARS OF THE ISSUANCE OF THE SYSTEM-WIDE FRANCHISE ALL
54 OTHER STATEWIDE FRANCHISE HOLDERS SHALL FULLY COMPLETE A SYSTEM CAPABLE
55 OF PROVIDING CABLE SERVICE TO ALL HOUSEHOLDS WITHIN THE CABLE OPERATOR'S
56 SERVICE AREA, SUBJECT TO THE CABLE OPERATOR'S LINE EXTENSION POLICY.

1 S 245. DISCRIMINATION IN THE PROVISIONING OF SERVICE PROHIBITED. 1.
2 THE FRANCHISE HOLDER SHALL BECOME CAPABLE OF PROVIDING CABLE SERVICE TO
3 ALL HOUSEHOLDS WITHIN THE DESIGNATED SERVICE AREA FOOTPRINT. A CABLE
4 OPERATOR THAT HAS BEEN GRANTED A STATEWIDE FRANCHISE UNDER THIS ARTICLE
5 SHALL NOT DENY ACCESS TO CABLE SERVICE TO ANY GROUP OF POTENTIAL RESI-
6 DENTIAL SUBSCRIBERS BECAUSE OF THE INCOME OR RACE OF THE RESIDENTS IN
7 THE LOCAL AREA IN WHICH SUCH GROUP RESIDES. A FRANCHISEE MUST SUBMIT TO
8 THE COMMISSION A DEPLOYMENT SCHEDULE, SETTING FORTH THE MUNICIPALITIES
9 TO BE SERVED, THE DATE SERVICE SHALL BEGIN IN EACH PROPOSED MUNICI-
10 PALITY, AND A DATE CERTAIN BY WHICH EACH COMMUNITY WILL BE ABLE TO
11 RECEIVE CABLE SERVICE. THE COMMISSION WILL ENSURE THAT THE BUILD-OUT
12 PROCESS IS NOT DISCRIMINATORY BASED ON AN AREA'S CLASS OR RACE. IF
13 DEPLOYMENT OF CABLE SERVICES UNDER A STATEWIDE FRANCHISE IS SCHEDULED
14 FOR DEPLOYMENT IN A GIVEN AREA, THE CABLE OPERATOR MUST OFFER SERVICE TO
15 ALL RESIDENTS WITHIN THE GEOGRAPHIC AREA OR THE COMMISSION MAY TERMINATE
16 THE FRANCHISE PURSUANT TO SECTION TWO HUNDRED THIRTY-SIX OF THIS ARTI-
17 CLE.

18 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE FRANCHISE HOLDER
19 SHALL COMPLY WITH CUSTOMER SERVICE REQUIREMENTS SET FORTH IN ARTICLE
20 ELEVEN OF THIS CHAPTER, AT 47 C.F.R. S 76.309(C) AND ANY OTHER CUSTOMER
21 SERVICE STANDARDS PERTAINING TO THE PROVISION OF VIDEO SERVICE ESTAB-
22 LISHED BY FEDERAL LAW OR REGULATION OR BY SUBSEQUENT ENACTMENT OF THE
23 LEGISLATURE. ALL CUSTOMER SERVICE AND CONSUMER PROTECTION STANDARDS
24 UNDER THIS SECTION SHALL BE INTERPRETED AND APPLIED TO ACCOMMODATE NEWER
25 OR DIFFERENT TECHNOLOGIES WHILE MEETING OR EXCEEDING THE GOALS OF THESE
26 STANDARDS.

27 3. IF THE COMMISSION DETERMINES THAT A CABLE OPERATOR HAS DENIED
28 ACCESS OF CABLE SERVICE TO A GROUP OF POTENTIAL RESIDENTIAL SUBSCRIBERS
29 BECAUSE OF THE INCOME LEVELS OF THE RESIDENTS OF THE LOCAL AREA IN WHICH
30 SUCH GROUP RESIDES OR HAS FAILED TO MEET THE REQUIREMENTS OF THE
31 SECTION, THE COMMISSION IS AUTHORIZED TO, AFTER CONDUCTING A HEARING
32 WITH FULL NOTICE AND OPPORTUNITY TO BE HEARD, IMPOSE MONETARY PENALTIES
33 OF NOT LESS THAN FIFTY THOUSAND DOLLARS, NOR MORE THAN ONE HUNDRED THOU-
34 SAND DOLLARS PER MUNICIPALITY, NOT TO EXCEED A TOTAL OF THREE MILLION
35 SIX HUNDRED FIFTY THOUSAND DOLLARS PER YEAR FOR ALL VIOLATIONS. A MUNI-
36 CIPALITY IN WHICH THE PROVIDER OFFERS CABLE SERVICE SHALL BE AN APPRO-
37 PRIATE PARTY IN ANY SUCH PROCEEDING.

38 S 246. ENFORCEMENT. THE EXCLUSIVE REMEDY FOR ENFORCING THE PROVISIONS
39 OF THIS ARTICLE, NOTWITHSTANDING SPECIFIC SECTIONS OF THIS ARTICLE,
40 SHALL BE AN ACTION IN A COURT OF COMPETENT JURISDICTION BROUGHT BY
41 EITHER THE MUNICIPALITY, THE ATTORNEY GENERAL ON BEHALF OF THE COMMIS-
42 SION OR OTHER INJURED PARTY. AT LEAST SIXTY DAYS BEFORE BRINGING SUCH AN
43 ACTION, THE MUNICIPALITY OR ATTORNEY GENERAL SHALL SERVE THE FRANCHISE
44 HOLDER WITH A NOTICE SETTING OUT THE ALLEGED VIOLATION AND STATING THAT
45 AN ACTION MAY BE BROUGHT UNLESS THE HOLDER CORRECTS THE ALLEGED
46 VIOLATION OR ENTERS INTO A BINDING AGREEMENT TO CORRECT THE VIOLATION
47 WITHIN THE SIXTY-DAY NOTICE PERIOD. THE NOTICE SHALL CONTAIN A SUFFI-
48 CIENTLY DETAILED DESCRIPTION OF THE ALLEGED VIOLATION TO ENABLE THE
49 FRANCHISE HOLDER TO MAKE A SPECIFIC RESPONSE.

50 S 6. Section 215 of the public service law is amended by adding a new
51 subdivision 14 to read as follows:

52 14. REQUIRE THAT CABLE TELEVISION FRANCHISES CONTAIN, UPON SUBMISSION
53 FOR CERTIFICATES OF CONFIRMATION, PROVISIONS REQUIRING THAT THE CABLE
54 TELEVISION SERVICES FRANCHISEE DELIVER TO THE FRANCHISOR AND THE COMMIS-
55 SION, ON AN ANNUAL BASIS, A WRITTEN REPORT DESCRIBING EVERY INSTANCE IN
56 WHICH SUCH FRANCHISEE BLOCKS, LIMITS OR OTHERWISE RESTRICTS SUBSCRIBERS

1 OR OTHER PURCHASERS OF BROADBAND SERVICES FROM THE FRANCHISEE FROM
2 ACCESSING ANY PARTICULAR INTERNET SITE OR CATEGORY OR TYPE OF INTERNET
3 SITE OR ANY SPECIFIC ELECTRONIC MAIL MESSAGE OR CATEGORY OR TYPE OF
4 ELECTRONIC MAIL ("NEUTRALITY REPORT"). SUCH NEUTRALITY REPORT SHALL
5 CONTAIN DETAIL OF A SPECIFICITY LEVEL TO BE DETERMINED BY THE COMMIS-
6 SION, AND SHALL CONTAIN SUFFICIENT DETAIL TO ALLOW THE COMMISSION OR THE
7 FRANCHISOR TO ASCERTAIN THE NATURE OF ANY BLOCKING, LIMITATION OR OTHER
8 RESTRICTIONS, AND THE REASON FOR THE FRANCHISEE FOR TAKING SUCH ACTION,
9 BUT SHALL BE PROVIDED IN A MANNER REASONABLY CALCULATED TO PROTECT
10 SUBSCRIBER PRIVACY OR THE LEGITIMATE NEEDS OF LAW ENFORCEMENT. NOTHING
11 IN THIS SUBDIVISION SHALL BE INTERPRETED TO RESTRICT THE RIGHTS OF FRAN-
12 CHISEES, IF THEY SO CHOOSE, TO BLOCK, LIMIT OR OTHERWISE RESTRICT THE
13 PASSAGE OF ELECTRONIC MAIL MESSAGES OR OTHER CONTENT THAT TRANSMIT,
14 PORTRAY, DESCRIBE, REPRESENT OR OTHERWISE CONTAIN MATTERS SUCH AS CHILD
15 PORNOGRAPHY OR SIMILAR OBSCENITY, OTHER UNLAWFUL MATERIAL, THREATS OF
16 SERIOUS BODILY HARM, THREATS TO THE PUBLIC SAFETY AND HOMELAND SECURITY,
17 THREATS OF DEATH TO INDIVIDUALS OR GROUPS OF INDIVIDUALS, VIRUSES OR
18 SIMILAR COMPUTER GENERATED PROGRAMS OR CODE THAT HAVE THE POTENTIAL TO
19 HARM COMPUTER HARDWARE AND/OR SOFTWARE AND/OR NETWORKS, EXCESSIVE UNSO-
20 LICITED COMMERCIAL EMAIL THAT DEGRADES OR INTERFERES WITH OR HARMS THE
21 NORMAL OPERATION OF BROADBAND NETWORKS, AND OTHER SIMILAR TYPES OR FORMS
22 OF MATERIAL OR SOFTWARE (THE FOREGOING EXAMPLES ARE ILLUSTRATIVE, NOT
23 EXHAUSTIVE OF SUCH THREATS TO USERS AND/OR THE NETWORK, COLLECTIVELY
24 HEREFTER "NETWORK THREATS"). BLOCKING OR LIMITATION OF SUBSCRIBER
25 ACCESS TO THE MAXIMALLY DIVERSE INTERNET, IF NOT PREDICATED UPON THE
26 FRANCHISEE'S RIGHT TO DEFEND ITS NETWORK AND SUBSCRIBERS AGAINST
27 "NETWORK THREATS", SHALL PRESUMPTIVELY BE A BREACH OF THE FRANCHISE. NO
28 FRANCHISEE SHALL BE RESPONSIBLE OR LIABLE FOR ANY EFFORTS BY OR POLI-
29 CIES, PRACTICES OR PROCEDURES OF AN UNAFFILIATED TELECOMMUNICATIONS
30 SERVICES PROVIDER OR INTERNET SERVICES PROVIDER OR INTERNET PROTOCOL
31 TRAFFIC ROUTING ENTITY TO BLOCK SUBSCRIBERS FROM ACCESSING ANY INTERNET
32 SITE OR ANY CATEGORY OR TYPE OF INTERNET SITE OR ANY SPECIFIC ELECTRONIC
33 MAIL MESSAGE OR ANY CATEGORY OR TYPE OF ELECTRONIC MAIL.

34 S 7. Section 99 of the public service law is amended by adding a new
35 subdivision 4 to read as follows:

36 4. NO BUILDING OWNER MAY DISCRIMINATE AGAINST A TELEPHONE COMPANY,
37 BROADBAND SERVICES OR ADVANCED COMMUNICATIONS COMPANY OR THEIR ABILITY
38 TO PROVIDE SERVICES TO ONE OR MORE TENANTS OF A MULTI-TENANT PROPERTY
39 THAT IS OWNED OR CONTROLLED BY THE BUILDING OWNER, INCLUDING DISCRIMINA-
40 TORY TERMS AND CONDITIONS BY WHICH THE TELEPHONE COMPANY, BROADBAND
41 SERVICES OR ADVANCED COMMUNICATIONS COMPANY GAIN PHYSICAL ACCESS TO THE
42 PROPERTY TO PLACE ITS FACILITIES AND PROVIDE TELECOMMUNICATIONS SERVICES
43 TO THE PROPERTY'S TENANTS. THE COMMISSION SHALL HAVE JURISDICTION TO
44 IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION BY APPROPRIATE RULES AND
45 REGULATIONS AND TO ADMINISTRATIVELY ADJUDICATE DISPUTES ARISING UNDER
46 THIS SUBDIVISION. IN NO EVENT MAY THE LACK OF AGREEMENT OVER TERMS AND
47 CONDITIONS OF ACCESS DELAY THE ABILITY OF A REQUESTING TELECOMMUNI-
48 CATIONS COMPANY TO OBTAIN ACCESS FOR MORE THAN THIRTY DAYS FOLLOWING AN
49 INITIAL REQUEST THEREFOR.

50 S 8. Subdivision 2 of section 99 of the public service law, as amended
51 by chapter 383 of the laws of 1996, is amended to read as follows:

52 2. (A) No franchise nor any right to or under any franchise to own or
53 operate a telegraph line or telephone line shall be assigned, trans-
54 ferred, or leased, nor shall any contract or agreement hereafter made
55 with reference to or affecting any such franchise or right be valid or
56 of any force or effect whatsoever[,] unless the assignment, transfer,

1 lease, contract, or agreement shall have been approved by the commis-
2 sion.

3 (B) No telephone corporation shall transfer or lease its works or
4 system or any part of such works or system to any other person or corpo-
5 ration or contract for the operation of its works or system[,] without
6 the written consent of the commission. [Notwithstanding the foregoing,
7 any such transfer or lease between affiliated corporations with an
8 original cost of (a) less than one hundred thousand dollars proposed by
9 a telephone corporation having annual gross revenues in excess of two
10 hundred million dollars, (b) less than twenty-five thousand dollars
11 proposed by a telephone corporation having annual gross revenues of less
12 than two hundred million but more than ten million dollars or (c) less
13 than ten thousand dollars proposed by a telephone corporation having
14 annual gross revenues of less than ten million dollars and any other
15 transfer or lease between non-affiliates regardless of cost shall be
16 effective without the commission's written consent within ninety days
17 after such corporation notifies the commission that it plans to complete
18 such transfer or lease and submits a description of the transfer or
19 lease, unless the commission, or its designee, determines within such
20 ninety days that the public interest requires the commission's review
21 and written consent.]

22 (C) (1) NO CONSENT SHALL BE GIVEN BY THE COMMISSION TO THE ASSIGNMENT,
23 TRANSFER, OR LEASE OF ANY RIGHT OR FRANCHISE TO OPERATE A TELEGRAPH LINE
24 OR TELEPHONE LINE UNLESS IT SHALL HAVE BEEN SHOWN THAT SUCH ASSIGNMENT,
25 TRANSFER, OR LEASE IS IN THE PUBLIC INTEREST.

26 (2) NO CONSENT SHALL BE GIVEN BY THE COMMISSION TO THE ASSIGNMENT,
27 TRANSFER, OR LEASE OF ANY RIGHT OR FRANCHISE TO OPERATE ANY PART OF A
28 TELEPHONE CORPORATION'S WORKS OR SYSTEM, OR TO A CONTRACT FOR THE OPERA-
29 TION OF SUCH ENTITY'S WORKS OR SYSTEM, UNLESS IT SHALL HAVE BEEN SHOWN
30 THAT SUCH ASSIGNMENT, TRANSFER, OR LEASE OR CONTRACT IS IN THE PUBLIC
31 INTEREST.

32 (D) BEFORE AUTHORIZING THE MERGER, ACQUISITION, ASSIGNMENT, LEASE, OR
33 TRANSFER OF CONTROL OF ANY TELEPHONE CORPORATION ORGANIZED AND DOING
34 BUSINESS IN THIS STATE, WHERE ANY OF THE ENTITIES THAT ARE PARTIES TO
35 THE PROPOSED TRANSACTION HAS GROSS ANNUAL NEW YORK REVENUES EXCEEDING
36 TWO HUNDRED MILLION DOLLARS, THE COMMISSION SHALL FIND THAT THE PROPOSAL
37 DOES ALL OF THE FOLLOWING:

38 (1) PROVIDES SHORT-TERM AND LONG-TERM ECONOMIC BENEFITS TO RATEPAYERS.

39 (2) EQUITABLY ALLOCATES, WHERE THE COMMISSION HAS RATEMAKING AUTHORI-
40 TY, THE TOTAL SHORT-TERM AND LONG-TERM FORECASTED ECONOMIC BENEFITS, AS
41 DETERMINED BY THE COMMISSION, OF THE PROPOSED MERGER, ACQUISITION, OR
42 CONTROL BETWEEN SHAREHOLDERS AND RATEPAYERS. RATEPAYERS SHALL RECEIVE
43 NOT LESS THAN FORTY PERCENT OF SUCH BENEFITS.

44 (3) MAINTAINS OR IMPROVES THE FINANCIAL CONDITION OF THE RESULTING
45 TELEPHONE CORPORATIONS DOING BUSINESS IN THE STATE AND DOES NOT UNREA-
46 SONABLY ALLOCATE A TELEPHONE CORPORATION'S DEBT TO A DIVESTITURE ENTITY
47 CREATED FROM AN EXISTING TELEPHONE CORPORATION. FOR THE PURPOSE OF THIS
48 SECTION, A DIVESTITURE ENTITY IS A BUSINESS ENTITY CREATED BY THE
49 ASSIGNMENT, EXCHANGE, SALE, OR OTHER TRANSFER OF SOME OR ALL OF AN
50 EXISTING TELEPHONE CORPORATION'S LINES, SYSTEM, OR WORKS TO A NEW TELE-
51 PHONE CORPORATION.

52 (4) MAINTAINS OR IMPROVES THE QUALITY OF SERVICE TO TELEPHONE CORPO-
53 RATION RATEPAYERS IN THE STATE.

54 (5) MAINTAINS OR IMPROVES THE QUALITY OF MANAGEMENT OF THE RESULTING
55 TELEPHONE CORPORATION DOING BUSINESS IN THE STATE.

(6) IS FAIR AND REASONABLE TO AFFECTED TELEPHONE CORPORATION EMPLOYEES, INCLUDING BOTH UNION AND NONUNION EMPLOYEES.

(7) IS FAIR AND REASONABLE TO THE MAJORITY OF ALL AFFECTED TELEPHONE CORPORATIONS.

(8) IS BENEFICIAL ON AN OVERALL BASIS TO STATE AND LOCAL ECONOMIES AND TO THE COMMUNITIES IN THE AREA SERVED BY THE RESULTING ENTITY AND DOES NOT ALLOCATE SUBSTANTIALLY UNFUNDED PENSION OR HEALTH CARE OBLIGATIONS OR OTHER EMPLOYEE BENEFITS TO A RESULTING TELEPHONE CORPORATION.

(9) PRESERVES THE JURISDICTION OF THE COMMISSION AND THE CAPACITY OF THE COMMISSION TO EFFECTIVELY REGULATE AND AUDIT TELEPHONE CORPORATION OPERATIONS IN THE STATE.

(10) PROVIDES MITIGATION MEASURES TO PREVENT SIGNIFICANT ADVERSE CONSEQUENCES WHICH MAY RESULT.

(11) DOES NOT ADVERSELY AFFECT COMPETITION. IN MAKING THIS FINDING, THE COMMISSION SHALL REQUEST AN ADVISORY OPINION FROM THE ATTORNEY GENERAL REGARDING WHETHER OR NOT COMPETITION WILL BE ADVERSELY AFFECTED AND WHAT MITIGATORY MEASURES COULD BE ADOPTED TO AVOID ANY SUCH ADVERSE EFFECT.

(E) WHEN REVIEWING A MERGER, ACQUISITION, OR TRANSFER OF CONTROL PROPOSAL, THE COMMISSION SHALL CONSIDER REASONABLE ALTERNATIVES OR MODIFICATIONS TO THE PROPOSAL RECOMMENDED BY OTHER PARTIES, INCLUDING NO MERGER, ACQUISITION, OR CONTROL, TO DETERMINE WHETHER OR NOT COMPARABLE SHORT-TERM AND LONG-TERM ECONOMIC SAVINGS CAN BE ACHIEVED THROUGH OTHER MEANS WHILE AVOIDING THE POSSIBLE ADVERSE CONSEQUENCES OF THE PROPOSAL.

(F) THE PERSON OR CORPORATION SEEKING ACQUISITION OR CONTROL OF A TELEPHONE CORPORATION ORGANIZED AND DOING BUSINESS IN THIS STATE SHALL HAVE BEFORE THE COMMISSION THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE REQUIREMENTS OF PARAGRAPH (D) OF THIS SUBDIVISION ARE MET.

(G) IN DETERMINING WHETHER OR NOT AN ACQUIRING TELEPHONE CORPORATION HAS GROSS ANNUAL REVENUES EXCEEDING THE AMOUNT SPECIFIED IN PARAGRAPH (D) OF THIS SUBDIVISION, THE REVENUES OF THAT TELEPHONE CORPORATION'S AFFILIATES SHALL NOT BE CONSIDERED, UNLESS THE AFFILIATE IS TO BE UTILIZED FOR THE PURPOSE OF EFFECTING SUCH MERGER, ACQUISITION, OR CONTROL.

(H) SUBPARAGRAPHS ONE AND TWO OF PARAGRAPH (D) OF THIS SUBDIVISION SHALL NOT APPLY TO THE FORMATION OF A HOLDING COMPANY.

(I) SUBPARAGRAPHS ONE AND TWO OF PARAGRAPH (D) OF THIS SUBDIVISION SHALL NOT APPLY TO ACQUISITIONS OR CHANGES IN CONTROL THAT ARE MANDATED BY EITHER THE COMMISSION OR THE LEGISLATURE.

S 9. Section 100 of the public service law, as amended by chapter 226 of the laws of 2009, is amended to read as follows:

S 100. Transfer and ownership of stock. 1. No telegraph corporation or telephone corporation, domestic or foreign, shall hereafter purchase [or], acquire, take, or hold any part of the capital stock of any telegraph corporation or telephone corporation organized or existing under the laws of this state unless authorized so to do by the commission.

2. Save where stock shall be transferred or held for the purpose of collateral security, no stock corporation, domestic or foreign, company, including, but not limited to, a limited liability company, association, including a joint stock association, partnership, including a limited liability partnership, or person, other than a telegraph corporation or telephone corporation, shall, without the consent of the commission, purchase [or], acquire, take, or hold more than ten [per centum] PERCENT of the voting capital stock issued by any telegraph corporation or telephone corporation organized or existing under or by virtue of the laws

1 of this state. Any corporation now lawfully holding a majority of the
2 voting capital stock of any telegraph corporation or telephone corpo-
3 ration may, without the consent of the commission, acquire and hold the
4 remainder of the voting capital stock of such telegraph corporation or
5 telephone corporation[,] or any portion thereof.

6 3. (A) No consent shall be given by the commission to the acquisition
7 of any stock in accordance with this section unless it shall have been
8 shown that such acquisition is in the public interest[; provided, howev-
9 er, that any], WHICH THE COMMISSION SHALL DETERMINE BY FINDING THAT THE
10 PROPOSAL DOES ALL OF THE FOLLOWING, TO THE EXTENT DETERMINED TO BE
11 APPLICABLE:

12 (I) PROVIDES SHORT-TERM AND LONG-TERM ECONOMIC BENEFITS TO RATEPAYERS.

13 (II) EQUITABLY ALLOCATES, WHERE APPLICABLE AND WHERE THE COMMISSION
14 HAS RATEMAKING AUTHORITY, THE TOTAL SHORT-TERM AND LONG-TERM FORECASTED
15 ECONOMIC BENEFITS, AS DETERMINED BY THE COMMISSION, OF THE PROPOSED
16 ACQUISITION, PURCHASE, SALE, TRANSFER, OR RETENTION BETWEEN SHAREHOLDERS
17 AND RATEPAYERS. RATEPAYERS SHALL RECEIVE NOT LESS THAN FORTY PERCENT OF
18 THOSE BENEFITS.

19 (III) MAINTAINS OR IMPROVES THE FINANCIAL CONDITION OF THE RESULTING
20 TELEPHONE CORPORATIONS DOING BUSINESS IN THE STATE AND DOES NOT UNREA-
21 SONABLY ALLOCATE A TELEPHONE CORPORATION'S DEBT TO A DIVESTITURE ENTITY
22 CREATED FROM AN EXISTING TELEPHONE CORPORATION. FOR THE PURPOSE OF THIS
23 SECTION, A DIVESTITURE ENTITY IS A BUSINESS ENTITY CREATED BY THE
24 ASSIGNMENT, EXCHANGE, SALE, OR OTHER TRANSFER OF SOME OR ALL OF AN
25 EXISTING TELEPHONE CORPORATION'S LINES, SYSTEM, OR WORKS TO A NEW TELE-
26 PHONE CORPORATION.

27 (IV) MAINTAINS OR IMPROVES THE QUALITY OF SERVICE TO TELEPHONE CORPO-
28 RATION RATEPAYERS IN THE STATE.

29 (V) MAINTAINS OR IMPROVES THE QUALITY OF MANAGEMENT OF THE RESULTING
30 TELEPHONE CORPORATION DOING BUSINESS IN THE STATE.

31 (VI) IS FAIR AND REASONABLE TO AFFECTED TELEPHONE CORPORATION EMPLOY-
32 EES, INCLUDING BOTH UNION AND NON-UNION EMPLOYEES.

33 (VII) IS FAIR AND REASONABLE TO THE MAJORITY OF ALL AFFECTED TELEPHONE
34 CORPORATIONS.

35 (VIII) IS BENEFICIAL, ON AN OVERALL BASIS, TO STATE AND LOCAL ECONO-
36 MIES, AND TO THE COMMUNITIES IN THE AREA SERVED BY THE RESULTING ENTITY
37 AND DOES NOT ALLOCATE SUBSTANTIALLY UNFUNDED PENSION OR HEALTH CARE
38 OBLIGATIONS OR OTHER EMPLOYEE BENEFITS TO A RESULTING TELEPHONE CORPO-
39 RATION.

40 (IX) PRESERVES THE JURISDICTION OF THE COMMISSION AND THE CAPACITY OF
41 THE COMMISSION TO EFFECTIVELY REGULATE AND AUDIT TELEPHONE CORPORATION
42 OPERATIONS IN THE STATE.

43 (X) PROVIDES MITIGATION MEASURES TO PREVENT SIGNIFICANTLY ADVERSE
44 CONSEQUENCES WHICH MAY RESULT FROM SUCH ACQUISITION.

45 (XI) DOES NOT ADVERSELY AFFECT COMPETITION. IN MAKING THIS FINDING,
46 THE COMMISSION SHALL REQUEST AN ADVISORY OPINION FROM THE ATTORNEY
47 GENERAL REGARDING WHETHER OR NOT COMPETITION WILL BE ADVERSELY AFFECTED
48 AND WHAT MITIGATORY MEASURES COULD BE ADOPTED TO AVOID ANY SUCH ADVERSE
49 EFFECT.

50 (B) ANY such consent, HOWEVER, shall be deemed to be granted by the
51 commission ninety days after such corporation applies to the commission
52 for its consent, unless the commission, or its designee, determines and
53 informs the applicant in writing within such ninety day period that the
54 public interest requires the commission's review and its written
55 consent. Nothing [herein] IN THIS SECTION contained shall be construed
56 to prevent the holding of any stock heretofore lawfully acquired, nor to

1 prevent, upon the surrender or exchange of such stock pursuant to a
2 reorganization plan, the purchase, acquisition, taking or holding of a
3 proportionate amount of stock of any new corporation organized to take
4 over, at foreclosure or other sale the property of any corporation whose
5 stock has been thus surrendered or exchanged[;], but the proportion of
6 the voting capital stock of the new corporation held by a stock corpo-
7 ration, company, association, partnership or person and acquired by it
8 by any such surrender or exchange of stock shall not without the consent
9 of the commission exceed the proportion of the voting capital stock held
10 by it in the former corporation.

11 4. Every contract, assignment, transfer, or agreement for transfer of
12 any stock by or through any person or corporation to any corporation,
13 company, association, partnership or person, in violation of any
14 provision of this chapter shall be void and of no effect, and no such
15 transfer or assignment shall be made upon the books of any such tele-
16 graph corporation or telephone corporation[,] or shall be recognized as
17 effective for any purpose.

18 S 10. The executive law is amended by adding a new section 32-a to
19 read as follows:

20 S 32-A. STATE AGENCY TELECOMMUNICATIONS RESOURCE MANAGEMENT. 1. WITHIN
21 NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, ALL STATE AGENCIES,
22 AS SUCH ARE DEFINED IN SUBDIVISION ONE OF SECTION THIRTY-TWO OF THIS
23 ARTICLE, SHALL STUDY AND REPORT UPON THE PHYSICAL LOCATION AND/OR
24 FREQUENCY, AND AMOUNT OF ALL EXCESS CAPACITY, WITHIN THE TELECOMMUNI-
25 CATIONS INFRASTRUCTURE AND RADIO FREQUENCY BANDWIDTH OWNED, LICENSED OR
26 OTHERWISE CONTROLLED BY SUCH AGENCIES. TELECOMMUNICATIONS INFRASTRUCTURE
27 IS HEREIN DEFINED FOR THE PURPOSES OF THIS ARTICLE TO INCLUDE CONDUITS,
28 DUCTS, POLES, WIRES, FIBEROPTIC CABLE AND/OR LINES, COAXIAL CABLE,
29 COPPER TWISTED PAIR TELEPHONE LINES, RECEIVERS, TRANSMITTERS, BROADCAST
30 RADIO FREQUENCY BANDWIDTH, LASERS AND MULTIPLEXERS, TRANSMITTERS,
31 INSTRUMENTS, MACHINES, APPLIANCES AND ALL DEVICES, REAL ESTATE, EASE-
32 MENTS, APPARATUS, PROPERTY AND ROUTES USED AND/OR OPERATED BY STATE
33 AGENCIES.

34 2. ALL STATE AGENCIES SHALL, WITHIN ONE HUNDRED FIFTY DAYS OF THE
35 EFFECTIVE DATE OF THIS SECTION, IDENTIFY THE EXCESS CAPACITY AND BAND-
36 WIDTH REPORTED UPON WHICH MAY BE LEASED ON A NON-DISCRIMINATORY AND
37 COMMERCIALY REASONABLE BASIS TO PUBLIC ENTITIES OR CERTIFIED TELECOMMU-
38 NICATIONS CARRIERS THAT NEED SUCH CAPACITY TO PROVIDE BROADBAND SERVICES
39 TO UNSERVED, UNDERSERVED AND DISTRESSED AREAS. SUCH EXCESS CAPACITY AND
40 BANDWIDTH SO IDENTIFIED SHALL BE REPORTED UPON.

41 3. ALL STATE AGENCIES SHALL, WITHIN ONE HUNDRED EIGHTY DAYS OF THE
42 EFFECTIVE DATE OF THIS SECTION, IDENTIFY AND REPORT UPON ALL TELECOMMU-
43 NICATIONS SERVICES PURCHASED, LEASED OR OTHERWISE USED BY THE AGENCIES
44 THAT MAY BE USED IN A TELECOMMUNICATIONS DEMAND AGGREGATION PROGRAM
45 ADMINISTERED BY THE STATE BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL
46 PURSUANT TO SECTION FOUR THOUSAND ONE HUNDRED FIVE OF THE PUBLIC AUTHOR-
47 ITIES LAW.

48 4. (A) ALL STATE AGENCIES SHALL, WITHIN NINETY DAYS OF THE EFFECTIVE
49 DATE OF THIS SECTION, INSTALL TELECOMMUNICATIONS-GRADE CONDUIT AND
50 ANTENNA ATTACHMENT POINTS IN AND/OR ON ALL INFRASTRUCTURE PROJECTS NEWLY
51 CONSTRUCTED OR UPGRADED BY SUCH AGENCIES, FOR LEASE ON A NON-DISCRIMINA-
52 TORY AND COMMERCIALY REASONABLE BASIS TO PUBLIC ENTITIES OR CERTIFIED
53 TELECOMMUNICATIONS CARRIERS THAT NEED SUCH CAPACITY TO PROVIDE BROADBAND
54 SERVICES TO UNSERVED, UNDERSERVED AND DISTRESSED AREAS. STATE AGENCIES
55 MAY, HOWEVER, EXEMPT FROM THIS REQUIREMENT INFRASTRUCTURE WHERE SUCH
56 INSTALLATIONS COULD POSE A THREAT TO PUBLIC SAFETY OR OTHERWISE BE

UNREASONABLE. SUCH CONDUIT AND ANTENNA ATTACHMENT POINT INSTALLATIONS SHALL BE REPORTED ON A SEMI-ANNUAL BASIS.

(B) THE STATE OFFICE OF GENERAL SERVICES SHALL, WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, MAKE WIRELESS INTERNET ACCESS AVAILABLE TO THE PUBLIC IN PUBLICLY ACCESSIBLE AND HIGHLY-TRAFFICKED AREAS OF THE STATE CAPITOL AND THE LEGISLATIVE OFFICE BUILDING, AND SUCH OTHER PUBLICLY ACCESSIBLE AND HIGHLY-TRAFFICKED OFFICE OF GENERAL SERVICES MANAGED STATE BUILDINGS AS IS REASONABLE AND PRUDENT.

5. ALL REPORTS PROVIDED FOR IN THIS SECTION SHALL BE DELIVERED INITIALLY, AND THEREAFTER ON AN ANNUAL BASIS, TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF THE SENATE AND ASSEMBLY, CHAIR AND RANKING MINORITY MEMBER OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE, AND THE CHAIR AND RANKING MINORITY MEMBER OF THE ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEE, CHAIR OF THE PUBLIC SERVICE COMMISSION, COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT, COMMISSIONER OF THE EMPIRE STATE DEVELOPMENT CORPORATION AND THE CHAIRPERSONS OF THE BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL AND BROADBAND DEVELOPMENT AUTHORITY.

S 11. The public authorities law is amended by adding a new section 2807 to read as follows:

S 2807. ANNUAL TELECOMMUNICATIONS RESOURCES REPORTS BY AUTHORITIES. 1. STATE AUTHORITIES. (A) FOR THE PURPOSE OF FURNISHING THE STATE WITH SYSTEMATIC INFORMATION REGARDING THE EXISTING, NEWLY CONSTRUCTED AND PLANNED TELECOMMUNICATIONS INFRASTRUCTURE RESOURCES OF PUBLIC AUTHORITIES, EVERY STATE AUTHORITY CONTINUED OR CREATED BY THIS CHAPTER OR ANY OTHER CHAPTER OF THE LAWS OF THE STATE OF NEW YORK SHALL:

(I) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, SUBMIT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF THE SENATE AND ASSEMBLY, CHAIR AND RANKING MINORITY MEMBER OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE, AND THE CHAIR AND RANKING MINORITY MEMBER OF THE ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEE, CHAIR OF THE PUBLIC SERVICE COMMISSION, COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT, COMMISSIONER OF THE EMPIRE STATE DEVELOPMENT CORPORATION AND THE CHAIRS OF THE BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL AND BROADBAND DEVELOPMENT AUTHORITY, A COMPLETE AND DETAILED REPORT OR REPORTS UPON THE PHYSICAL LOCATION AND/OR FREQUENCY, AND AMOUNT OF ALL EXCESS CAPACITY, WITHIN THE TELECOMMUNICATIONS INFRASTRUCTURE AND RADIO FREQUENCY BANDWIDTH OWNED, LICENSED OR OTHERWISE CONTROLLED BY STATE AUTHORITIES;

(II) WITHIN ONE HUNDRED FIFTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, SUBMIT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF THE SENATE AND ASSEMBLY, CHAIR AND RANKING MINORITY MEMBER OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE, AND THE CHAIR AND RANKING MINORITY MEMBER OF THE ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEE, CHAIRPERSON OF THE PUBLIC SERVICE COMMISSION, COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT, COMMISSIONER OF THE EMPIRE STATE DEVELOPMENT CORPORATION AND THE CHAIRPERSONS OF THE BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL AND BROADBAND DEVELOPMENT AUTHORITY, A COMPLETE AND DETAILED REPORT OR REPORTS IDENTIFYING THE EXCESS CAPACITY AND BANDWIDTH POSSESSED OR CONTROLLED BY STATE AUTHORITIES WHICH MAY BE LEASED ON A NON-DISCRIMINATORY AND COMMERCIALY REASONABLE BASIS TO PUBLIC ENTITIES OR CERTIFIED TELECOMMUNICATIONS CARRIERS THAT NEED SUCH CAPACITY TO PROVIDE BROADBAND SERVICES TO UNSERVED, UNDERSERVED AND DISTRESSED AREAS;

1 (III) WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS
2 SECTION, IDENTIFY AND REPORT UPON ALL TELECOMMUNICATIONS SERVICES
3 PURCHASED, LEASED OR OTHERWISE USED BY THE AUTHORITIES THAT MAY BE USED
4 IN A TELECOMMUNICATIONS DEMAND AGGREGATION PROGRAM ADMINISTERED BY THE
5 STATE BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL.

6 (B) ALL STATE AUTHORITIES SHALL, FROM THE EFFECTIVE DATE OF THIS
7 SECTION, INSTALL TELECOMMUNICATIONS-GRADE CONDUIT AND ANTENNA ATTACHMENT
8 POINTS IN AND/OR ON ALL INFRASTRUCTURE PROJECTS NEWLY CONSTRUCTED OR
9 UPGRADED BY SUCH AGENCIES, FOR LEASE ON A NON-DISCRIMINATORY AND COMMER-
10 CIALY REASONABLE BASIS TO PUBLIC ENTITIES OR CERTIFIED TELECOMMUNI-
11 CATIONS CARRIERS THAT NEED SUCH CAPACITY TO PROVIDE BROADBAND SERVICES
12 TO UNSERVED, UNDERSERVED AND DISTRESSED AREAS. STATE AUTHORITIES MAY,
13 HOWEVER, EXEMPT FROM THIS REQUIREMENT INFRASTRUCTURE WHERE SUCH INSTAL-
14 LATIONS COULD POSE A THREAT TO PUBLIC SAFETY OR OTHERWISE BE UNREASON-
15 ABLE. SUCH CONDUIT AND ANTENNA ATTACHMENT POINT INSTALLATIONS SHALL BE
16 REPORTED ON A SEMI-ANNUAL BASIS.

17 (C) ALL STATE AUTHORITY REPORTS PROVIDED FOR IN THIS SECTION SHALL BE
18 DELIVERED INITIALLY, AND THEREAFTER ON AN ANNUAL BASIS UNLESS OTHERWISE
19 SPECIFIED, TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER
20 OF THE ASSEMBLY, MINORITY LEADERS OF THE SENATE AND ASSEMBLY, CHAIR AND
21 RANKING MINORITY MEMBER OF THE SENATE ENERGY AND TELECOMMUNICATIONS
22 COMMITTEE, AND THE CHAIR AND RANKING MINORITY MEMBER OF THE ASSEMBLY
23 CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEE, CHAIR OF THE PUBLIC
24 SERVICE COMMISSION, COMMISSIONER OF THE EMPIRE STATE DEVELOPMENT CORPO-
25 RATION AND THE CHAIRPERSONS OF THE BROADBAND DEVELOPMENT AND DEPLOYMENT
26 COUNCIL AND BROADBAND DEVELOPMENT AUTHORITY.

27 (D) TELECOMMUNICATIONS INFRASTRUCTURE IS DEFINED FOR THE PURPOSES OF
28 THIS ARTICLE TO INCLUDE CONDUITS, DUCTS, POLES, WIRES, FIBEROPTIC CABLE
29 AND/OR LINES, COAXIAL CABLE, COPPER TWISTED PAIR TELEPHONE LINES,
30 RECEIVERS, TRANSMITTERS, BROADCAST RADIO FREQUENCY BANDWIDTH, LASERS AND
31 MULTIPLEXERS, TRANSMITTERS, INSTRUMENTS, MACHINES, APPLIANCES AND ALL
32 DEVICES, REAL ESTATE, EASEMENTS, APPARATUS, PROPERTY AND ROUTES USED
33 AND/OR OPERATED BY STATE AUTHORITIES AND LOCAL AUTHORITIES.

34 2. LOCAL AUTHORITIES. (A) FOR THE PURPOSE OF FURNISHING THE STATE WITH
35 SYSTEMATIC INFORMATION REGARDING THE EXISTING, NEWLY CONSTRUCTED AND
36 PLANNED TELECOMMUNICATIONS INFRASTRUCTURE RESOURCES OF PUBLIC AUTHORI-
37 TIES, EVERY LOCAL AUTHORITY CONTINUED OR CREATED BY THIS CHAPTER OR ANY
38 OTHER CHAPTER OF THE LAWS OF THE STATE OF NEW YORK SHALL:

39 (I) WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, SUBMIT
40 TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE
41 ASSEMBLY, MINORITY LEADERS OF THE SENATE AND ASSEMBLY, CHAIR AND RANKING
42 MINORITY MEMBER OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE,
43 AND THE CHAIR AND RANKING MINORITY MEMBER OF THE ASSEMBLY CORPORATIONS,
44 AUTHORITIES AND COMMISSIONS COMMITTEE, CHAIR OF THE PUBLIC SERVICE
45 COMMISSION, COMMISSIONER OF THE EMPIRE STATE DEVELOPMENT CORPORATION AND
46 THE CHAIRS OF THE BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL AND
47 BROADBAND DEVELOPMENT AUTHORITY, A COMPLETE AND DETAILED REPORT OR
48 REPORTS UPON THE PHYSICAL LOCATION AND/OR FREQUENCY, AND AMOUNT OF ALL
49 EXCESS CAPACITY, WITHIN THE TELECOMMUNICATIONS INFRASTRUCTURE AND RADIO
50 FREQUENCY BANDWIDTH OWNED, LICENSED OR OTHERWISE CONTROLLED BY STATE
51 AUTHORITIES;

52 (II) WITHIN ONE HUNDRED FIFTY DAYS OF THE EFFECTIVE DATE OF THIS
53 SECTION, SUBMIT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE,
54 SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF THE SENATE AND ASSEMBLY,
55 CHAIR AND RANKING MINORITY MEMBER OF THE SENATE ENERGY AND TELECOMMUNI-
56 CATIONS COMMITTEE, AND THE CHAIR AND RANKING MINORITY MEMBER OF THE

1 ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEE, CHAIR OF
2 THE PUBLIC SERVICE COMMISSION, COMMISSIONER OF THE EMPIRE STATE DEVELOP-
3 MENT CORPORATION AND THE CHAIRS OF THE BROADBAND DEVELOPMENT AND DEPLOY-
4 MENT COUNCIL AND BROADBAND DEVELOPMENT AUTHORITY, A COMPLETE AND
5 DETAILED REPORT OR REPORTS IDENTIFYING THE EXCESS CAPACITY AND BANDWIDTH
6 POSSESSED OR CONTROLLED BY LOCAL AUTHORITIES WHICH MAY BE LEASED ON A
7 NON-DISCRIMINATORY AND COMMERCIALY REASONABLE BASIS TO PUBLIC ENTITIES
8 OR CERTIFIED TELECOMMUNICATIONS CARRIERS THAT NEED SUCH CAPACITY TO
9 PROVIDE BROADBAND SERVICES TO UNSERVED, UNDERSERVED AND DISTRESSED
10 AREAS;

11 (III) WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS
12 SECTION, IDENTIFY AND REPORT UPON ALL TELECOMMUNICATIONS SERVICES
13 PURCHASED, LEASED OR OTHERWISE USED BY THE AUTHORITIES THAT MAY BE USED
14 IN A TELECOMMUNICATIONS DEMAND AGGREGATION PROGRAM ADMINISTERED BY THE
15 STATE BROADBAND DEVELOPMENT AND DEPLOYMENT COUNCIL.

16 (B) ALL LOCAL AUTHORITIES SHALL, FROM THE EFFECTIVE DATE OF THIS
17 SECTION, INSTALL TELECOMMUNICATIONS-GRADE CONDUIT AND ANTENNA ATTACHMENT
18 POINTS IN AND/OR ON ALL INFRASTRUCTURE PROJECTS NEWLY CONSTRUCTED OR
19 UPGRADED BY SUCH AGENCIES, FOR LEASE ON A NON-DISCRIMINATORY AND COMMER-
20 CIALY REASONABLE BASIS TO PUBLIC ENTITIES OR CERTIFIED TELECOMMUNI-
21 CATIONS CARRIERS THAT NEED SUCH CAPACITY TO PROVIDE BROADBAND SERVICES
22 TO UNSERVED, UNDERSERVED AND DISTRESSED AREAS. LOCAL AUTHORITIES MAY,
23 HOWEVER, EXEMPT FROM THIS REQUIREMENT INFRASTRUCTURE WHERE SUCH INSTAL-
24 LATIONS COULD POSE A THREAT TO PUBLIC SAFETY OR OTHERWISE BE UNREASON-
25 ABLE. SUCH CONDUIT AND ANTENNA ATTACHMENT POINT INSTALLATIONS SHALL BE
26 REPORTED ON A SEMI-ANNUAL BASIS.

27 (C) ALL LOCAL AUTHORITY REPORTS PROVIDED FOR IN THIS SECTION SHALL BE
28 DELIVERED INITIALLY, AND THEREAFTER ON AN ANNUAL BASIS UNLESS OTHERWISE
29 SPECIFIED, TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER
30 OF THE ASSEMBLY, MINORITY LEADERS OF THE SENATE AND ASSEMBLY, CHAIR AND
31 RANKING MINORITY MEMBER OF THE SENATE ENERGY AND TELECOMMUNICATIONS
32 COMMITTEE, AND THE CHAIR AND RANKING MINORITY MEMBER OF THE ASSEMBLY
33 CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEE, CHAIRPERSON OF THE
34 PUBLIC SERVICE COMMISSION, COMMISSIONER OF THE EMPIRE STATE DEVELOPMENT
35 CORPORATION AND THE CHAIRPERSONS OF THE BROADBAND DEVELOPMENT COUNCIL
36 AND BROADBAND AUTHORITY.

37 3. STATE AND LOCAL AUTHORITIES. TO THE EXTENT PRACTICABLE, AND
38 CONSISTENT WITH APPLICABLE DIRECTIVES OR GUIDELINES BY THE EMERGENCY
39 PREPAREDNESS COMMISSION, STATE EMERGENCY MANAGEMENT OFFICE AND STATE
40 OFFICE OF HOMELAND SECURITY, EACH STATE AND LOCAL AUTHORITY SHALL MAKE
41 ACCESSIBLE TO THE PUBLIC VIA ITS OFFICIAL INTERNET WEB SITE DOCUMENTA-
42 TION PERTAINING TO THE TELECOMMUNICATIONS INFRASTRUCTURE RESOURCES OWNED
43 BY, LEASED BY, USED BY OR OTHERWISE CONTROLLED BY SUCH STATE AND LOCAL
44 AUTHORITIES.

45 S 12. The public service law is amended by adding a new section 90-a
46 to read as follows:

47 S 90-A. STATEMENT OF POLICY. 1. THE STATE OF NEW YORK'S LONG-STANDING
48 POLICY, CODIFIED IN THIS SECTION, IS THAT CERTAIN COMMUNICATIONS TOOLS,
49 AND PARTICULARLY TELEPHONE SERVICES, I.E. ESSENTIAL SERVICES, ARE SO
50 FUNDAMENTAL THAT IT IS NOT IN THE PUBLIC INTEREST TO LEAVE THEIR
51 PROVISION TO THE VAGARIES OF THE MARKETPLACE ALONE. FURTHERMORE, THE
52 LEGISLATURE DECLARES THAT IT IS IN THE PUBLIC INTEREST THAT SUCH ESSEN-
53 TIAL SERVICES BE MADE AND MAINTAINED UNIVERSALLY ACROSS NEW YORK. SUCH
54 TOOLS AND SERVICES HAVE, OVER TIME, AND INCREASINGLY NOW, SHAPED CITI-
55 ZENS' ABILITY TO PARTICIPATE IN CIVIC AFFAIRS, TO ACQUIRE LEARNING
56 SKILLS NEEDED FOR THEIR ECONOMIC SUCCESS AND THAT OF THE STATE, AND TO

1 ENJOY THE RICH AND UNPARALLELED SOCIAL AND CULTURAL LIFE THAT IS A VITAL
2 PART OF NEW YORK STATE'S ECONOMY. THE STATE'S GOALS FOR UNIVERSAL
3 SERVICE ARE TO FURTHER AND PROTECT THE PUBLIC INTEREST BY PROMOTING THE
4 AVAILABILITY OF QUALITY SERVICES AT JUST, REASONABLE, AND AFFORDABLE
5 RATES; TO ADVANCE THE AVAILABILITY OF SUCH SERVICES TO ALL CONSUMERS,
6 INCLUDING THOSE IN LOW INCOME, RURAL, INSULAR, AND HIGH COST AREAS AT
7 RATES THAT ARE REASONABLY COMPARABLE TO THOSE CHARGED IN HIGH-DENSITY
8 URBAN AREAS; AND TO INCREASE ACCESS TO, AND THE UBIQUITY OF, ADVANCED
9 TELECOMMUNICATIONS SERVICES AVAILABLE TO THE PUBLIC IN AN EQUITABLE AND
10 NONDISCRIMINATORY MANNER. ALL TELEPHONE CORPORATIONS AND PROVIDERS AND
11 RESELLERS OF TELECOMMUNICATIONS SERVICES SHOULD CONTRIBUTE TO CORE
12 PUBLIC SAFETY AND PUBLIC INTEREST GOALS TO THE EXTENT ALLOWABLE BY LAW.
13 AT A MINIMUM, THESE INCLUDE EQUIVALENT UNIVERSAL SERVICE SUPPORT,
14 PROVISION AND SUPPORT FOR E911, DISABILITY ACCESS, CONSUMER PROTECTIONS,
15 AND EQUITABLE TAXATION. EFFECTIVE PUBLIC PROGRAMS MUST BE MADE AVAILABLE
16 WHERE COMPETITIVE FORCES DO NOT RESULT IN THE DEPLOYMENT, MAINTENANCE,
17 OR RECONSTRUCTION OF AFFORDABLE, HIGH-QUALITY, AND RELIABLE ADVANCE
18 TELECOMMUNICATIONS CAPABILITY ACROSS ALL GEOGRAPHIC REGIONS AND DEMO-
19 GRAPHIC SEGMENTS OF THE STATE. TELECOMMUNICATIONS NETWORKS MUST BE
20 INTER-OPERABLE, BASED ON OPEN STANDARDS, RELIABLE, SURVIVABLE, DIVERSELY
21 PATHED, AS WIDELY INTERCONNECTED AS IS REASONABLE, ACCESSIBLE FOR ALL
22 USERS AS PROVIDED FOR BY LAW, INCLUDING BUT NOT LIMITED TO THE AMERICANS
23 WITH DISABILITIES ACT, AND ALL APPLICABLE FEDERAL, STATE, AND LOCAL
24 REGULATIONS, AND MUST MEET BASIC REQUIREMENTS CONCERNING PUBLIC SAFETY,
25 CONSUMER PROTECTION, AND RELEVANT SOCIAL AND MORAL OBLIGATIONS.

26 2. FOR THE PURPOSES OF THIS SECTION:

27 (A) THE TERM "UNIVERSAL SERVICE" MEANS THAT CERTAIN BASIC TELEPHONE
28 FACILITIES, SERVICES, AND INSTRUMENTALITIES, KNOWN AS "ESSENTIAL
29 SERVICES", SHALL BE ACCESSIBLE TO ANY PERSON, CORPORATION, OR LOCALITY
30 IN NEW YORK STATE AT COSTS REASONABLY COMPARABLE TO RATES CHARGED IN
31 URBAN AREAS AND LOW-COST AREAS, SO THAT THERE SHALL NOT BE ANY UNDUE OR
32 UNREASONABLE PREFERENCE OR ADVANTAGE TO ANY PERSON, CORPORATION, OR
33 LOCALITY.

34 (B) THE TERM "ESSENTIAL SERVICES" MEANS THE PROVISION BY TELEPHONE
35 CORPORATIONS OF VOICE GRADE ACCESS TO AND ACROSS THE PUBLIC SWITCHED
36 TELEPHONE NETWORK, WITH THE ABILITY TO PLACE AND RECEIVE CALLS;
37 TOUCH-TONE SERVICE; SINGLE-PARTY SERVICE; ACCESS TO EMERGENCY SERVICES,
38 INCLUDING 911 AND E911 (WHICH IDENTIFIES A CALLER'S LOCATION); ACCESS TO
39 OPERATOR SERVICES; ACCESS TO INTER-EXCHANGE SERVICES; ACCESS TO DIRECTO-
40 RY ASSISTANCE; ACCESS TO "LIFELINE" SERVICES, OR OTHER SERVICES EQUIV-
41 ALENT IN PRICE AND QUALITY FOR QUALIFYING LOW-INCOME CONSUMERS; AND
42 ACCESS TO ALL OF SUCH OTHER SERVICES AS MAY BE MANDATED BY FEDERAL,
43 STATE, AND LOCAL LAW.

44 3. WITHIN THIRTY DAYS OF THE DATE ON WHICH THE COMMISSION HAD ACTUAL
45 KNOWLEDGE, OR SHOULD REASONABLY HAVE KNOWN OR BEEN INFORMED, OF THE
46 OCCURRENCE, OR APPEARANCE OF THE PROXIMATE OCCURRENCE, OF A PURCHASE,
47 ACQUISITION, TAKING, OR OTHER TRANSFER OF CONTROL OR OWNERSHIP OF THE
48 CAPITAL STOCK OF A TELEGRAPH OR TELEPHONE CORPORATION ORGANIZED OR
49 EXISTING UNDER THE LAWS OF THIS STATE WITHIN THE CONTEMPLATION OF
50 SECTION ONE HUNDRED OF THIS ARTICLE OR PARAGRAPH (B) OF THIS SUBDIVI-
51 SION, THE COMMISSION SHALL COMPILE AND PUBLISH A REPORT ON THE EFFECT,
52 IF ANY, OF SUCH TRANSFER OF CONTROL UPON UNIVERSAL SERVICE IN THE STATE.
53 SUCH REPORT SHALL BE KNOWN AS THE "UNIVERSAL SERVICE IMPACT ANALYSIS",
54 AND SHALL BE ISSUED BEFORE THE COMMISSION MAY VOTE UPON THE APPROVAL OF
55 SUCH OCCURRENCE. IF, ON THE EFFECTIVE DATE OF THIS SUBDIVISION, THERE IS
56 A PROCEEDING BEFORE THE COMMISSION WITHIN THE CONTEMPLATION OF SUBDIVI-

SION ONE OF THIS SECTION, THEN THE COMMISSION SHALL HAVE THIRTY DAYS FROM SUCH EFFECTIVE DATE TO ISSUE ITS UNIVERSAL SERVICE IMPACT ANALYSIS REPORT. SUCH UNIVERSAL SERVICE IMPACT ANALYSIS REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) AN ANALYSIS OF THE EFFECTS UPON PRICING OF TELEPHONE SERVICES IN HIGH-COST AND RURAL AND LOW-INCOME AREAS AFFECTED BY SUCH TRANSFER OF CONTROL;

(B) AN ANALYSIS OF THE ACTUAL OR POTENTIAL EFFECTS OF SUCH TRANSFER OF CONTROL UPON NETWORK RELIABILITY AND SERVICE QUALITY IN THE AREA AFFECTED BY SUCH TRANSFER OF CONTROL;

(C) AN ANALYSIS OF THE ACTUAL OR POTENTIAL EFFECTS UPON NEW SERVICE PROVISION IN RURAL AND HIGH-COST AND LOW-INCOME AREAS WITHIN THE AREA AFFECTED BY SUCH TRANSFER OF CONTROL.

FOR THE PURPOSES OF TRIGGERING SUCH REPORTING REQUIREMENT BY THE COMMISSION, THERE SHALL BE A REBUTTABLE PRESUMPTION OF A TRANSFER OF CONTROL OR OWNERSHIP UPON THE ACQUISITION OR ACCUMULATION BY ANY PERSON OR GROUP OF PERSONS OF TEN PERCENT OR MORE OF THE SHARES OF, OR OF COMPARABLE OWNERSHIP INTEREST IN, A TELEGRAPH OR TELEPHONE CORPORATION. SUCH TRANSFER OF CONTROL OR ACQUISITION OR ACCUMULATION OF OWNERSHIP INTERESTS SHALL ALSO BE DEEMED TO OCCUR UPON THE SALE, ASSIGNMENT, TRANSFER, DIVESTITURE OF A PORTION OF A BUSINESS ENTITY, LEASE OR OTHER DISPOSAL, EITHER IN WHOLE OR PART, EITHER BY INVOLUNTARY SALE OR BY VOLUNTARY SALE, MERGER, OR CONSOLIDATION, OR BANKRUPTCY, OF ANY TITLE TO SUCH TELEGRAPH OR TELEPHONE CORPORATION, EITHER LEGAL OR EQUITABLE, OR OF THE LINES OR OTHER NETWORK ELEMENTS OF SUCH TELEGRAPH OR TELEPHONE CORPORATION WITHIN THREE OR MORE LOCAL ACCESS AND TRANSPORT AREAS (LATAS) OR COUNTIES.

4. UPON THE COMPLETION OF THE REPORT UNDER SUBDIVISION THREE OF THIS SECTION THE COMMISSION SHALL HAVE POWER AND THE DUTY TO ESTABLISH BY RULE OR REGULATION, WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, SUCH CHARGES, EXCHANGES OF FUNDS, FEES, METHODOLOGIES, AND MODALITIES AS ARE NECESSARY AND CONVENIENT TO PROMOTE AND ENSURE THE STATEWIDE UNIVERSAL AVAILABILITY OF HIGH-QUALITY ESSENTIAL SERVICES AT JUST, REASONABLE, AND AFFORDABLE RATES; TO ADVANCE THE AVAILABILITY OF SUCH SERVICES TO ALL CONSUMERS, INCLUDING THOSE IN LOW INCOME, RURAL, INSULAR, AND HIGH COST AREAS AT RATES THAT ARE REASONABLY COMPARABLE TO THOSE CHARGED IN LOW COST AND URBAN AREAS; AND TO INCREASE ACCESS TO, AND THE UBIQUITY OF, ADVANCED TELECOMMUNICATIONS SERVICES AVAILABLE TO THE PUBLIC IN AN EQUITABLE AND NONDISCRIMINATORY MANNER. THE COMMISSION SHALL HAVE POWER AND THE DUTY TO PROMULGATE SUCH RULES OR REGULATIONS AS ARE NECESSARY AND CONVENIENT TO EFFECTUATE THE STATE POLICIES SET FORTH IN THIS SECTION.

S 13. The public service law is amended by adding a new section 90-b to read as follows:

S 90-B. REPORTS, HEARINGS AND INVESTIGATIONS STUDYING MATTERS IN THE PUBLIC INTEREST. THE LEGISLATURE FINDS THAT UNIVERSAL ACCESS TO AFFORDABLE TELEPHONE SERVICE HAS BEEN A LONG-STANDING TRADITION AND POLICY OF THE STATE. HOWEVER, THIS POLICY HAS COME INTO QUESTION WITH PROPOSALS BY INCUMBENT CARRIERS TO SELL SIGNIFICANT PORTIONS OF THE UPSTATE TELEPHONE NETWORK TO COMPANIES WITH LITTLE OR NO BACKGROUND IN THE PROVISION OF TELEPHONE SERVICE. UNIVERSAL SERVICE, LONG TAKEN FOR GRANTED, MUST NOW BE REEVALUATED TO ENSURE THAT ANY FUTURE UPSTATE TELEPHONE CARRIERS WILL MAINTAIN THIS POLICY. THEREFORE, THE DEPARTMENT SHALL PREPARE AND SUBMIT, ON OR BEFORE AUGUST FIRST, TWO THOUSAND FIFTEEN, A REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF THE SENATE AND ASSEMBLY, CHAIR AND RANKING MINORITY

1 MEMBER OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE, AND THE
2 CHAIR AND RANKING MINORITY MEMBER OF THE ASSEMBLY CORPORATIONS, AUTHORI-
3 TIES AND COMMISSIONS COMMITTEE. THE REPORT SHALL EVALUATE THE IMPLI-
4 CATIONS OF A SALE OF A PORTION OF THE UPSTATE TELEPHONE NETWORK FOR THE
5 POLICY OF UNIVERSAL ACCESS TO AFFORDABLE SERVICE. THE REPORT SHALL
6 FURTHER EVALUATE THE STANDARDS BY WHICH THE DEPARTMENT WILL ANALYZE A
7 PROPOSED SALE.

8 S 14. The public service law is amended by adding a new section 90-c
9 to read as follows:

10 S 90-C. LEGISLATIVE FINDINGS. 1. THE LEGISLATURE FINDS THAT DEPLOYING
11 BROADBAND NETWORKS AND ADVANCED COMMUNICATIONS SERVICES THROUGHOUT NEW
12 YORK WILL ENABLE CONTINUED IMPROVEMENTS IN HEALTHCARE, PUBLIC SAFETY,
13 EDUCATION, ECONOMIC DEVELOPMENT AND THE CREATION OF JOBS, AND WILL
14 FACILITATE THE FREE EXCHANGE OF IDEAS THAT IS VITAL TO DEMOCRACY. THE
15 LEGISLATURE FURTHER FINDS THAT NEW YORK'S FINANCIAL SERVICES COMMUNITY,
16 PUBLISHING COMMUNITY, HIGHER EDUCATION COMMUNITY, HIGH-TECHNOLOGY COMMU-
17 NITY AND OTHER WORLD-CLASS BUSINESS COMMUNITIES HAVE PLACED NEW YORK AT
18 THE FOREFRONT OF NUMEROUS VITAL INDUSTRIES, BUT THAT TO CONTINUE TO BE A
19 WORLD-CLASS LEADER, NEW YORK MUST ADOPT POLICIES AND PRACTICES THAT
20 PROMOTE THE ROLL-OUT AND FURTHER DEVELOPMENT OF BROADBAND. FINALLY, THE
21 LEGISLATURE FINDS THAT RURAL AREAS OF NEW YORK LACK THE MULTIPLE TELE-
22 COMMUNICATIONS CONNECTIONS NECESSARY TO LINK TO OUTSIDE RESOURCES DURING
23 TIMES OF EMERGENCY, THAT BROADBAND NETWORKS ARE NECESSARY TO CREATE OR
24 FACILITATE SUSTAINABLE TELEMEDICINE NETWORKS THAT CONNECT RURAL HEALTH
25 CLINICS TO URBAN MEDICAL CENTERS, AND THAT INCREASED GOVERNMENT USE OF
26 BROADBAND NETWORKS AND ADVANCED COMMUNICATIONS SERVICES WILL ENHANCE
27 GOVERNMENT OPERATIONS THROUGH TELEMEDICINE FOR HEALTHCARE, DISTANCE
28 LEARNING FOR EDUCATION, REDUNDANT AND DIVERSELY-PATHED COMMUNICATIONS
29 NETWORKS FOR PUBLIC SAFETY COMMUNICATIONS AND TO GENERALLY PROTECT THE
30 HEALTH AND WELFARE OF THE STATE AND ITS CITIZENS.

31 2. THE DEPARTMENT SHALL PREPARE AND SUBMIT, WITHIN NINETY DAYS OF THE
32 EFFECTIVE DATE OF THIS SECTION, A REPORT TO THE GOVERNOR, TEMPORARY
33 PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF
34 THE SENATE AND ASSEMBLY, CHAIR AND RANKING MINORITY MEMBER OF THE SENATE
35 ENERGY AND TELECOMMUNICATIONS COMMITTEE, AND THE CHAIR AND RANKING
36 MINORITY MEMBER OF THE ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMIS-
37 SIONS COMMITTEE. THE REPORT SHALL STUDY IN DETAIL THE ACTUAL RETAIL
38 AVAILABILITY OF WIRELINE, WIRELESS CELLULAR AND FIXED-WIRELESS BROADBAND
39 COMMUNICATIONS MODALITIES ACROSS THE STATE OF NEW YORK, AND SHALL ORGAN-
40 IZE THE DATA OF SUCH AVAILABILITY BY CENSUS TRACT.

41 3. THE DEPARTMENT, ACTING TOGETHER WITH THE EMPIRE STATE DEVELOPMENT
42 CORPORATION, SHALL PREPARE AND SUBMIT, WITHIN NINETY DAYS OF THE EFFEC-
43 TIVE DATE OF THIS SECTION, A REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT
44 OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF THE SENATE
45 AND ASSEMBLY, CHAIR AND RANKING MINORITY MEMBER OF THE SENATE ENERGY AND
46 TELECOMMUNICATIONS COMMITTEE, AND THE CHAIR AND RANKING MINORITY MEMBER
47 OF THE ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEE. THE
48 REPORT SHALL LIST ALL FEDERAL, STATE, LOCAL, FOUNDATION, PRIVATE SECTOR
49 AND OTHER FUNDS, GRANTS, LOANS AND OTHER FUNDING MECHANISMS THAT CAN BE
50 APPLIED FOR AND USED BY THE BROADBAND DEVELOPMENT AUTHORITY, BY THE
51 STATE, BY MUNICIPAL CORPORATIONS, BY NONPROFIT CORPORATIONS AND BY
52 PRIVATE SECTOR BUSINESSES TO FUND BROADBAND DEPLOYMENT IN NEW YORK.

53 4. THE DEPARTMENT, ACTING TOGETHER WITH THE OFFICE FOR TECHNOLOGY AND
54 THE OFFICE OF CYBER SECURITY AND CRITICAL INFRASTRUCTURE COORDINATION
55 ("CSCIC") SHALL PREPARE AND SUBMIT, WITHIN NINETY DAYS OF THE EFFECTIVE
56 DATE OF THIS SECTION, A REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF

1 THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF THE SENATE AND
2 ASSEMBLY, CHAIR AND RANKING MINORITY MEMBER OF THE SENATE ENERGY AND
3 TELECOMMUNICATIONS COMMITTEE, AND THE CHAIR AND RANKING MINORITY MEMBER
4 OF THE ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEE. THE
5 REPORT SHALL DETERMINE THE LOCATION OF ALL AREAS OF THE STATE, BY CENSUS
6 TRACT, THAT DO NOT HAVE GENERALLY AND READILY COMMERCIALY AVAILABLE
7 RETAIL ACCESS TO BROADBAND WIRELINE FACILITIES AND/OR FIXED-WIRELESS
8 BROADBAND FACILITIES ("UNSERVED AREAS"); THE REPORT SHALL ALSO DETERMINE
9 ALL AREAS OF THE STATE, BY CENSUS TRACT, THAT DO NOT HAVE GENERALLY AND
10 READILY COMMERCIALY AVAILABLE RETAIL ACCESS TO BROADBAND WIRELINE
11 FACILITIES AND/OR FIXED-WIRELESS BROADBAND FACILITIES FROM TWO OR MORE
12 TELECOMMUNICATIONS OR ADVANCED COMMUNICATIONS SERVICES PROVIDERS
13 ("UNDERSERVED AREAS"); THE REPORT SHALL ALSO DETERMINE THE LOCATION OF
14 ALL AREAS OF THE STATE, BY CENSUS TRACT, THAT QUALIFY AS "DISTRESSED
15 AREAS" UNDER THIS CHAPTER, AND EITHER DO OR DO NOT HAVE GENERALLY AND
16 READILY COMMERCIALY AVAILABLE RETAIL ACCESS TO BROADBAND WIRELINE
17 FACILITIES AND/OR FIXED-WIRELESS BROADBAND FACILITIES; THE REPORT SHALL,
18 FURTHERMORE, ASSESS AND SET FORTH WITH SPECIFICITY THE AGGREGATE UNMET
19 DEMAND FOR BROADBAND SERVICES IN UNSERVED, UNDERSERVED AND DISTRESSED
20 AREAS BY CENSUS TRACT AND BY BLOCK, LOT OR OTHER UNIQUELY IDENTIFIABLE
21 ADMINISTRATIVE CHARACTERISTIC, AND SHALL ESTIMATE THE AMOUNT OF BROAD-
22 BAND CONNECTIVITY THAT WOULD NEED TO BE BUILT OR OFFERED IN SUCH AREAS
23 TO MEET THE UNMET DEMAND. SUCH REPORT SHALL, IN ADDITION TO BEING
24 SUBMITTED TO THE GOVERNMENT OFFICES AND OFFICIALS SET FORTH ABOVE, BE
25 USED TO CREATE A MAP IN STANDARD FORMAT TO BE DETERMINED BY THE NEW YORK
26 GEOGRAPHIC INFORMATION SYSTEMS CLEARINGHOUSE AND CSCIC, AND CONSISTENT
27 WITH THE LEGITIMATE SECURITY CONCERNS THAT MAY BE EXPRESSED BY CSCIC,
28 SUCH MAP SHALL BE A FULLY THREE-DIMENSIONAL REPRESENTATION OF ALL BROAD-
29 BAND RESOURCES WITHIN THE STATE.

30 S 15. The public service law is amended by adding a new section 90-d
31 to read as follows:

32 S 90-D. LEGISLATIVE PURPOSE. 1. THE LEGISLATURE FINDS THAT:

33 (A) THE PUBLIC INTEREST IS FURTHERED AND PROTECTED BY ENSURING THAT
34 NEW YORK'S EXISTING ENHANCED 9-1-1 ("E911") SYSTEM FOR WIRELINE TELE-
35 PHONE SERVICE AND WIRELESS CELLULAR TELEPHONE SERVICE PROVIDE ALL THE
36 AUTOMATIC NUMBER IDENTIFICATION ("ANI") AND AUTOMATIC LOCATION IDENTIFI-
37 CATION ("ALI") NECESSARY TO PROTECT PUBLIC SAFETY AND RESPOND TO HOME-
38 LAND SECURITY CONCERNS, AND PARTICULARLY SO IN RURAL AREAS AND ON OR
39 NEAR NEW YORK'S COASTLINES;

40 (B) EXISTING EMERGENCY SERVICES SYSTEMS CAN ISOLATE EMERGENCY RESPONSE
41 AGENCIES THAT NEED INTER-CONNECTIVITY IN MEETING HOMELAND SECURITY AND
42 PUBLIC SAFETY CRISES;

43 (C) ALL 9-1-1 CALLERS IN NEW YORK, AND THE FIRST RESPONDERS WHO
44 RECEIVE AND ACT UPON SUCH CALLS, WOULD BE BETTER ABLE TO ENHANCE THE
45 PUBLIC SAFETY WITH FLEXIBLE E911 NETWORKS THAT COULD BE INTERCONNECTED
46 WITH LOCAL, REGIONAL AND NATIONAL INTERNET PROTOCOL BASED NETWORKS, AND
47 THAT COULD BE FLEXIBLY ADAPTED AND SCALED TO MEET THE CHALLENGES NEW
48 COMMUNICATIONS TECHNOLOGY PLACE UPON E911 NETWORKS; AND

49 (D) CLEAR LINES OF AUTHORITY AND ORGANIZATION IN THE DEPLOYMENT AND
50 ADMINISTRATION OF PUBLIC SAFETY ANSWERING POINTS SHOULD BE A GOAL OF
51 STATE E911 POLICY.

52 2. THE DEPARTMENT SHALL PREPARE AND SUBMIT, WITHIN NINETY DAYS OF THE
53 DATE THIS SECTION BECOMES LAW A REPORT TO THE GOVERNOR, TEMPORARY PRESI-
54 DENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF THE
55 SENATE AND ASSEMBLY, CHAIR AND RANKING MINORITY MEMBER OF THE SENATE
56 ENERGY AND TELECOMMUNICATIONS COMMITTEE, AND THE CHAIR AND RANKING

1 MINORITY MEMBER OF THE ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMIS-
2 SIONS COMMITTEE. THE REPORT SHALL STUDY IN DETAIL THE TECHNICAL CHAL-
3 Lenges FACING AND POTENTIALLY DEGRADING THE EFFECTIVENESS OF NEW YORK'S
4 EXISTING E911 NETWORKS, AND SHALL STUDY AND REPORT UPON IN DETAIL THE
5 NEXT-GENERATION TECHNOLOGICAL SOLUTIONS, AND NATIONAL STANDARDS, AND
6 POTENTIALLY AMELIORATIVE SYSTEMS AND PROCEDURES PROPOSED BY NATIONAL
7 PUBLIC SAFETY EXPERT ASSOCIATIONS SUCH AS, BUT NOT LIMITED TO, THE
8 NATIONAL EMERGENCY NUMBERING ASSOCIATION ("NENA"), THE ASSOCIATION OF
9 PUBLIC-SAFETY COMMUNICATIONS OFFICIALS ("APCO"), AND THE NATIONAL PUBLIC
10 SAFETY TELECOMMUNICATIONS COUNCIL.

11 3. THE DEPARTMENT, ACTING TOGETHER WITH THE STATE EMERGENCY MANAGEMENT
12 OFFICE, THE STATE OFFICE OF FIRE PREVENTION AND CONTROL, AND THE STATE
13 POLICE, SHALL PREPARE AND SUBMIT, WITHIN NINETY DAYS OF THE EFFECTIVE
14 DATE OF THIS SECTION, A REPORT TO THE GOVERNOR, TEMPORARY PRESIDENT OF
15 THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF THE SENATE AND
16 ASSEMBLY, CHAIR AND RANKING MINORITY MEMBER OF THE SENATE ENERGY AND
17 TELECOMMUNICATIONS COMMITTEE, AND THE CHAIR AND RANKING MINORITY MEMBER
18 OF THE ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMISSIONS COMMITTEE. THE
19 REPORT SHALL EXAMINE THE CURRENT E911 SYSTEMS FUNDING MECHANISMS, STATE-
20 WIDE, REGIONAL, COUNTY AND LOCAL ADMINISTRATION OF E911 FACILITIES, THE
21 EXTENT OR LACK THEREOF OF THE COMMISSION'S EXISTING REGULATORY AUTHORITY
22 OF E911 ISSUES IN NEW YORK, AND SUCH OTHER PUBLIC SAFETY ISSUES DIRECTLY
23 ARISING FROM THE CURRENT E911 IMPLEMENTATIONS IN NEW YORK AS IS NECES-
24 SARY AND CONVENIENT TO PROTECT THE PUBLIC INTEREST.

25 4. WITHIN SIXTY DAYS AFTER THE SUBMISSION OF THE REPORTS REQUIRED BY
26 SUBDIVISIONS TWO AND THREE OF THIS SECTION, THE COMMISSION SHALL CONVENE
27 A SERIES OF PUBLIC HEARINGS TO DISCUSS NEW YORK'S EXISTING E911 SYSTEMS
28 AND NETWORKS AND THE FINDINGS OF SUCH REPORTS IN NEW YORK TO CLARIFY THE
29 PUBLIC POLICY ISSUES INVOLVED THAT MIGHT REQUIRE LEGISLATIVE ATTENTION.

30 S 16. The public service law is amended by adding a new section 90-e
31 to read as follows:

32 S 90-E. WIRELESS TELEPHONE QUALITY, RELIABILITY AND AFFORDABILITY
33 STUDY. 1. WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS
34 SECTION, THE COMMISSION SHALL STUDY AND REPORT ON THE QUALITY, RELIABIL-
35 ITY, AND AFFORDABILITY, OF WIRELESS TELEPHONE SERVICE, INCLUDING WHY
36 SUBDIVISION SIX OF SECTION FIVE OF THIS CHAPTER SHOULD NOT BE REPEALED.
37 THE COMMISSION SHALL ALSO, AS PART OF SUCH STUDY, DETERMINE WHAT RULES
38 AND REGULATIONS SHALL BE NECESSARY:

39 (A) TO ENHANCE CONSUMER PROTECTIONS CURRENTLY OFFERED TO WIRELESS
40 TELEPHONE SERVICES CONSUMERS;

41 (B) TO ESTABLISH AND SAFEGUARD WIRELESS TELEPHONE SERVICE QUALITY SO
42 THAT IT IS REASONABLY COMPARABLE TO THE WIRELINE SERVICE QUALITY NECES-
43 SARY TO SAFEGUARD CITIZEN ACCESS TO E911; AND

44 (C) TO PROTECT THE PUBLIC INTEREST, PUBLIC SAFETY AND HEALTH AND
45 WELFARE.

46 2. THE STUDY SHALL INCLUDE A DETAILED ANALYSIS EXAMINING WHETHER THE
47 WIRELESS TELEPHONE SERVICE PROVIDERS' POLICIES INCLUDE ADEQUATE CONSUMER
48 PROTECTIONS INCLUDING WHETHER:

49 (A) THERE IS SUFFICIENT WRITTEN DISCLOSURE IN THE COMPANY'S CONSUMER
50 SERVICE CONTRACT WITH RESPECT TO THE CALLING AREA FOR THE PLAN, THE
51 MONTHLY ACCESS FEE OR BASE CHARGE; THE NUMBER OF AIRTIME MINUTES
52 INCLUDED IN THE PLAN; ANY NIGHT AND WEEKEND MINUTES INCLUDED IN THE PLAN
53 OR OTHER DIFFERING CHARGES FOR DIFFERING TIME PERIODS AND THE TIME PERI-
54 ODS WHEN NIGHT AND WEEKEND MINUTES OR OTHER CHARGES APPLY; THE CHARGES
55 FOR EXCESS OR ADDITIONAL MINUTES; WHETHER OR NOT, AND THE EXTENT TO
56 WHICH, PER-MINUTE DOMESTIC OR INTERNATIONAL LONG DISTANCE CHARGES ARE

1 INCLUDED IN OTHER RATES, AND, TO THE EXTENT NOT INCLUDED, THE APPLICABLE
2 PER-MINUTE LONG DISTANCE RATES; PER-MINUTE ROAMING OR OFF-NETWORK CHARG-
3 ES; THE AMOUNT OF ANY ADDITIONAL TAXES, FEES, OR SURCHARGES THAT WILL BE
4 COLLECTED OR RETAINED BY THE WIRELESS TELEPHONE SERVICE PROVIDER; IF THE
5 PLAN REQUIRES A FIXED-TERM CONTRACT, THE DURATION OF SUCH CONTRACT; THE
6 AMOUNT OF ANY EARLY TERMINATION FEE AND THE CONDITIONS UNDER WHICH ANY
7 SUCH EARLY TERMINATION FEE WOULD APPLY, INCLUDING THE LENGTH OF ANY
8 TRIAL PERIOD DURING WHICH NO EARLY TERMINATION FEE WOULD APPLY;

9 (B) THE FIRST BILL RENDERED BY THE WIRELESS TELEPHONE SERVICE PROVIDER
10 TO THE CUSTOMER SHALL INCLUDE NOTICE OF THE TERMS ON AND THE PERIOD OF
11 TIME DURING WHICH SUCH SERVICE MAY BE TERMINATED WITHOUT PENALTY; A
12 STATEMENT NOTIFYING THE CUSTOMER THAT THE SERVICE INCLUDES BASIC WIRE-
13 LESS 911 SERVICE; THE INFORMATION WHICH IS INCLUDED IN THE EDUCATIONAL
14 PLAN FOR INFORMING THE PUBLIC ABOUT THE ENHANCED WIRELESS 911 SERVICE IN
15 NEW YORK STATE REQUIRED BY SUBDIVISION EIGHT OF SECTION THREE HUNDRED
16 TWENTY-EIGHT OF THE COUNTY LAW AND WHICH IS AN EXPLANATION OF THE
17 ENHANCED WIRELESS 911 SYSTEM AND A PROGRESS REPORT ON THE
18 COUNTY-BY-COUNTY IMPLEMENTATION OF THE STATEWIDE SYSTEM; WEBSITE INFOR-
19 MATION TO PERMIT THE CONSUMER TO ACCESS SUCH INFORMATION VIA THE INTER-
20 NET IN ACCORDANCE WITH SUBDIVISION EIGHT OF SECTION THREE HUNDRED TWEN-
21 TY-EIGHT OF THE COUNTY LAW; THE TOLL-FREE HOTLINE NUMBER BY WHICH SUCH
22 INFORMATION MAY BE ACCESSED BY THE CONSUMER IN ACCORDANCE WITH SUBDIVI-
23 SION EIGHT OF SECTION THREE HUNDRED TWENTY-EIGHT OF THE COUNTY LAW; AND
24 BASED UPON CUSTOMER SUPPLIED INFORMATION REGARDING ANTICIPATED USAGE
25 PATTERNS AND UPON SUCH CUSTOMER'S REQUEST, A GOOD FAITH ESTIMATE OF THE
26 MONTHLY FIXED AND USAGE CHARGES AND ADDITIONAL TAXES, FEES, OR
27 SURCHARGES AND OF THE ANTICIPATED TOTAL MONTHLY BILL FOR SUCH CUSTOMER
28 UNDER SUCH PLAN;

29 (C) WIRELESS TELEPHONE SERVICE PROVIDERS HAVE ADEQUATELY ESTABLISHED
30 PROCEDURES FOR DISCLOSURE AT ANY POINT OF SALE OR OF CONTACT WITH POTEN-
31 TIAL OR EXISTING RESIDENTIAL CUSTOMERS OF MAPS DISPLAYING THE WIRELESS
32 TELEPHONE SERVICE PROVIDER'S OUTSIDE COVERAGE WITHIN THE STATE AND WITH-
33 IN EACH COUNTY OF THE STATE IN WHICH SUCH PROVIDER PROVIDES SERVICE;

34 (D) WIRELESS TELEPHONE SERVICE PROVIDERS CLEARLY DESCRIBE IN PLAIN
35 LANGUAGE THE PRODUCTS AND SERVICES FOR WHICH CHARGES ARE IMPOSED, AND
36 SHALL CONFORM TO FORMAT STANDARDS ESTABLISHED BY THE BOARD IN THE
37 CUSTOMER'S MONTHLY BILL;

38 (E) WIRELESS TELEPHONE SERVICE PROVIDERS OFFER CUSTOMERS A TRIAL PERI-
39 OD WHICH AFTER THE FIRST BILL IS RENDERED TO SUCH CUSTOMER FOR MONTHLY
40 SERVICE FOLLOWING SERVICE ACTIVATION AND DURING WHICH PERIOD SUCH
41 CUSTOMER MAY, AFTER PAYMENT FOR SERVICES USED, TERMINATE SUCH SERVICE
42 WITHOUT INCURRING ANY TERMINATION FEES OR CHARGES OR ANY OTHER PENALTY
43 OF ANY KIND AND MAY, UPON THE RETURN OF ANY HANDSET BOUGHT OR LEASED IN
44 CONNECTION WITH SUCH SERVICE, RECEIVE A PRO RATA REFUND OF ANY AMOUNTS
45 PAID FOR SUCH HANDSET;

46 (F) WIRELESS TELEPHONE SERVICE PROVIDERS HAVE ESTABLISHED PROCEDURES
47 FOR THE NOTIFICATION OF RESIDENTIAL CUSTOMERS AT LEAST THIRTY DAYS IN
48 ADVANCE OF ANY CHANGE IN RATES, CHARGES, TERMS, OR CONDITIONS OF SERVICE
49 FOR SUCH CUSTOMERS; AND

50 (G) WIRELESS TELEPHONE SERVICE PROVIDERS HAVE ESTABLISHED PROCEDURES
51 FOR THE TIMELY PRIOR NOTICE TO RESIDENTIAL CUSTOMERS OF THE WIRELESS
52 TELEPHONE SERVICE PROVIDER'S INTENT TO TERMINATE SUCH CUSTOMER'S SERVICE
53 SUCH THAT, AT A MINIMUM, SUCH CUSTOMER IS FULLY ADVISED OF THE AMOUNT
54 WHICH MUST BE PAID TO MAINTAIN SERVICE, THE PROCEDURES AVAILABLE TO MAKE
55 SUCH PAYMENTS SO THAT THE TERMINATION MAY BE AVOIDED AND THE BOARD'S
56 COMPLAINT HANDLING PROCEDURES.

1 3. THE COMMISSION SHALL DELIVER THE REPORT TO THE GOVERNOR, TEMPORARY
2 PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADERS OF
3 THE SENATE AND ASSEMBLY, CHAIR AND RANKING MINORITY MEMBER OF THE SENATE
4 ENERGY AND TELECOMMUNICATIONS COMMITTEE, AND THE CHAIR AND RANKING
5 MINORITY MEMBER OF THE ASSEMBLY CORPORATIONS, AUTHORITIES AND COMMIS-
6 SIONS COMMITTEE.

7 4. THE COMMISSION SHALL, AT THE COMPLETION OF THE STUDY AND SIMULTANE-
8 OUSLY WITH THE DELIVERY OF THE REPORT, BEGIN A RULEMAKING PROCEEDING TO
9 IMPLEMENT SUCH RULES AS MAY BE DETERMINED DURING THE STUDY TO BE NECES-
10 SARY AND CONVENIENT TO EFFECTUATE THE REQUIREMENTS OF SUBDIVISION ONE OF
11 THIS SECTION.

12 S 17. The public service law is amended by adding a new section 90-f
13 to read as follows:

14 S 90-F. LEGISLATIVE FINDINGS AND DECLARATION. 1. IT IS HEREBY FOUND
15 AND DECLARED THAT UNIVERSAL, AFFORDABLE AND HIGH QUALITY TELECOMMUNI-
16 CATIONS SERVICES THAT MEET THE NEEDS OF INDIVIDUALS AND BUSINESSES IN
17 THE STATE ARE NECESSARY AND VITAL TO THE WELFARE AND DEVELOPMENT OF OUR
18 SOCIETY. IT IS, AND HAS BEEN THE GOAL OF THE STATE TO ENSURE THE
19 UNIVERSAL AVAILABILITY AND ACCESSIBILITY OF HIGH QUALITY, AFFORDABLE
20 TELECOMMUNICATIONS SERVICES TO ALL RESIDENTS AND BUSINESSES IN THE STATE
21 AND TO ENSURE THAT PROVIDERS OF TELECOMMUNICATIONS SERVICES IN THE STATE
22 PROVIDE HIGH QUALITY CUSTOMER SERVICE AND HIGH QUALITY TECHNICAL
23 SERVICE. ALL NEW YORK RESIDENTS SHOULD BE ABLE TO EXPECT TO RECEIVE A
24 SIMILAR LEVEL OF HIGH QUALITY SERVICE REGARDLESS OF WHERE THEY LIVE OR
25 WHO PROVIDES THEIR SERVICE. THE COMMISSION MUST MAKE USE OF ITS MAXIMUM
26 AUTHORITY TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE BY ENSURING
27 THAT TELEPHONE SERVICE QUALITY DOES NOT ERODE TO THE POINT THAT E-911
28 SERVICE IS ENDANGERED BY PERSISTENT, EXTENDED, OR CHRONIC LOSS OF DIAL-
29 TONE, OR BY THE FAILURE OF INTERMODAL CARRIERS TO PROVIDE E-911
30 SERVICES, OR BY SUCH OTHER EROSION OF SERVICE QUALITY THAT WOULD TEND TO
31 UNDERMINE THE ABILITY OF THE VARIOUS CITIZENS OF NEW YORK TO ENGAGE IN
32 PROTECTED SPEECH OVER THE TELEPHONE NETWORKS AND LINES AND FACILITIES
33 AND EQUIPMENT UNDER THE JURISDICTION OF THE COMMISSION.

34 2. THE COMMISSION SHALL COMMENCE A STUDY TO SURVEY SERVICE QUALITY
35 PRACTICES AND STANDARDS OF PROVIDERS OF TELECOMMUNICATIONS SERVICES THAT
36 WILL LEAD TO LEGISLATIVE AND REGULATORY RECOMMENDATIONS. FOR THE
37 PURPOSES OF THIS SECTION, "TELECOMMUNICATIONS SERVICE PROVIDER" OR
38 "PROVIDER OF TELECOMMUNICATIONS SERVICES" SHALL MEAN A TELEPHONE CORPO-
39 RATION, OR OTHER PROVIDER OF TELEPHONE SERVICES, CERTIFIED IN THE STATE
40 WITH THE AUTHORITY TO PROVIDE INTRASTATE TOLL AND LOCAL EXCHANGE SERVICE
41 USING EITHER ITS OWN OR LEASED FACILITIES. THE COMMISSION SHALL ALSO, AS
42 PART OF SUCH STUDY, DETERMINE WHAT RULES AND REGULATIONS SHALL BE NECES-
43 SARY:

44 (A) TO ENHANCE CONSUMER PROTECTIONS CURRENTLY OFFERED TO WIRELINE
45 TELEPHONE SERVICES CONSUMERS;

46 (B) TO ESTABLISH AND SAFEGUARD WIRELINE TELEPHONE SERVICE QUALITY SO
47 THAT IT IS REASONABLY COMPARABLE TO THE WIRELINE SERVICE QUALITY NECES-
48 SARY TO SAFEGUARD CITIZEN ACCESS TO E911; AND

49 (C) TO PROTECT THE PUBLIC INTEREST, PUBLIC SAFETY AND HEALTH AND
50 WELFARE.

51 3. THE COMMISSION SHALL SPECIFICALLY STUDY SERVICE AND RELIABILITY
52 ISSUES INCLUDING, BUT NOT LIMITED TO, AREAS OF THE STATE THAT EXPERIENCE
53 CHRONIC TELECOMMUNICATIONS OUTAGES, CUSTOMER SERVICE PROVIDERS OF TELE-
54 COMMUNICATION SERVICES, INSTALLATION OF TELECOMMUNICATION SERVICES
55 ISSUES, NETWORK PERFORMANCE, DATA COLLECTION BY PROVIDERS OF TELECOMMU-
56 NICATIONS SERVICES, THE PREVIOUS EFFECT OF PERFORMANCE-BASED INCENTIVE

1 PLANS UPON SERVICE QUALITY PROVIDED BY WIRELINE PROVIDERS, WHETHER AND
2 HOW THE COMMISSION'S PRE-TWO THOUSAND ONE SERVICE QUALITY AND CONSUMER
3 PROTECTION RULES AND REGULATIONS CAN BE EXPANDED TO BE EQUALLY APPLICA-
4 BLE TO ALL TELECOMMUNICATIONS PROVIDERS THAT PROVIDE E911 AND IN ANY
5 MARKETING MATERIALS PRESENT THEIR COMPANY OR PRODUCT AS A REPLACEMENT
6 FOR PRIMARY LINE TELEPHONE SERVICE USED BY CONSUMERS IN NEW YORK, AND
7 ISSUES CONCERNING REPORTING UPON SERVICE QUALITY AND OTHER CONSUMER
8 PROTECTION RELATED ISSUES, PROVIDED HOWEVER THAT SUCH REPORTING REQUIRE-
9 MENTS SHALL BE EXAMINED BY THE COMMISSION FOR METHODS THAT MIGHT
10 DECREASE THE COST OF COMPLIANCE BY SUCH TELECOMMUNICATIONS PROVIDERS.

11 4. THE COMMISSION SHALL ISSUE A REPORT OF ITS FINDINGS INCLUDING
12 LEGISLATIVE AND REGULATORY RECOMMENDATIONS TO ENHANCE RELIABILITY OF
13 PROVIDERS OF TELEPHONE SERVICE TO THE GOVERNOR, TEMPORARY PRESIDENT OF
14 THE SENATE, SPEAKER OF THE ASSEMBLY, CHAIR OF THE SENATE COMMITTEE ON
15 ENERGY AND TELECOMMUNICATIONS AND CHAIR OF THE ASSEMBLY COMMITTEE ON
16 CORPORATIONS, AUTHORITIES AND COMMISSIONS WITHIN ONE HUNDRED EIGHTY
17 DAYS.

18 5. THE COMMISSION SHALL, AT THE COMPLETION OF THE STUDY AND SIMULTANE-
19 OUSLY WITH THE DELIVERY OF THE REPORT, BEGIN A RULEMAKING PROCEEDING TO
20 IMPLEMENT SUCH RULES AS MAY BE DETERMINED DURING THE STUDY TO BE NECES-
21 SARY AND CONVENIENT TO EFFECTUATE THE REQUIREMENTS OF SUBDIVISION TWO OF
22 THIS SECTION.

23 S 18. Applicability of other laws. The provisions of section seven of
24 this act are intended to be consistent with the Federal Cable Act, 47
25 U.S.C. S521, et. seq., and nothing in this act shall be interpreted to
26 prevent a voice provider, cable operator or municipality from seeking
27 clarification of its rights and obligations under federal law. In the
28 event that any cable operator obtains relief through judicial, adminis-
29 trative, or executive action from any obligation imposed under this act,
30 or from any obligation in a franchise agreement that gives rise to an
31 obligation of another cable operator under this act, all other cable
32 operators shall be deemed to be relieved of their obligations under this
33 act within the same geographic area and to the same extent.

34 S 19. Severability. If any provision of this act or its application to
35 any person or circumstance is held invalid, this invalidity does not
36 affect other provisions or applications of this act that can be given
37 effect without the invalid provision or application, and to this end the
38 provisions of this act are declared to be severable.

39 S 20. This act shall take effect immediately.