AN ACT to amend the public service law, in relation to the issuance of stocks, bonds and other forms of indebtedness for the purpose of expanding broadband services

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

Section 1. Section 101 of the public service law, as amended by chapter 443 of the laws of 2000, is amended to read as follows:

S 101. Authority to issue stock, bonds and other forms of indebtedness. A telegraph or telephone corporation may, when authorized by the commission, issue stock, bonds, notes or other evidences of indebtedness payable at periods of more than twelve months after the date thereof, or a receiver of such a corporation, if duly authorized by law, may issue receiver's certificates, when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities or the improvement or maintenance of its service within the state, or for the discharge or lawful refunding of its obligations, or reimbursement of moneys actually expended from the income from any source, within five years next prior to the filing of the application

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

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therefor, or for any of such purposes, provided, however, that no
authority shall be granted authorizing such issue for reimbursement of
moneys expended from income for betterments or replacements unless the
applicant shall have kept its accounts and vouchers of such expenditures
in such manner as to enable the commission to ascertain the amount of
moneys so expended and the purposes for which such expenditures were
made. Stock may be issued to stockholders as a stock dividend provided
that there shall have been secured from the commission authority for
such issuance and for a transfer of surplus to capital in an amount
equal to the par or stated value of the stock so authorized and that the
applicant has certified in the application for authority that a sum
equal to the amount to be so transferred was expended for the purposes
enumerated in this section. Stock may be issued to an employee or direc-
tor of a telegraph or telephone corporation under a stock option plan
pursuant to which such corporation grants options to its employees or
directors to purchase shares of stock, such options to be exercisable
for a stated period of time to purchase shares of stock at the market
value of the stock at the time of issuance of the option, provided that
there shall have been secured from the commission authority for such
issuance and that the applicant has certified in the application for
authority that the proceeds from the exercise of the stock options are
needed for one of the purposes enumerated in this section. The issue of
stocks, bonds or other evidences of indebtedness, within the meaning of
this section, shall include the sale by any such corporation of any such
securities previously issued in compliance with the provisions of this
section and subsequently reacquired by such corporation, provided,
however, for good cause shown the commission may exempt from the
restriction hereof stocks, bonds or other evidences of indebtedness. The
application for authority shall state the amount of any such issue and
the purposes to which it or its proceeds are to be applied and shall
certify that the money, property or labor procured or to be procured or
paid for by such issue or its proceeds, INCLUDING PROCEEDS FROM FEDERAL
LOANS FOR THE EXPANSION FOR BROADBAND SERVICES, has been or is reason-
ably required for the purposes specified in the application for authori-
ty, and that such purposes are in no part reasonably chargeable to oper-
ating expenses or to income except in the case of bonds, notes or other
evidences of indebtedness as may be specifically identified in the
application for authority. For the purpose of enabling the commission to
determine whether it should authorize such issuance, the commission
shall have the power to make such inquiry or investigation, hold such
hearings and examine such witnesses, books, papers, documents or
contracts as it may determine of importance in enabling it to reach a
determination, PROVIDED THAT ANY DETERMINATION FROM AN INQUIRY, INVESTI-
GATION OR EXAMINATION OF PROCEEDS OF FEDERAL LOANS FOR THE EXPANSION OF
BROADBAND SERVICES SHALL BE PERFORMED WITHIN SIXTY CALENDAR DAYS OF
RECEIPT OF SUCH TELEPHONE AND TELEGRAPH PROVIDER'S APPLICATION FOR
AUTHORITY, OR SUCH APPLICATION SHALL BE DEEMED APPROVED. No such corpo-
ration shall, without the consent of the commission, apply any such
issue or its proceeds to any purpose not specified in the application
for authority, EXCEPT WHEN THERE HAS NOT BEEN A DETERMINATION WITHIN
SIXTY CALENDAR DAYS FROM THE COMMISSION WITH RESPECT TO PROCEEDS OF
FEDERAL LOANS FOR THE EXPANSION OF BROADBAND SERVICES. Such telegraph
corporation or telephone corporation may issue notes for proper corpo-
rate purposes and not in violation of any provision of this chapter or
of any other act, payable at periods of not more than twelve months
without the consent of the commission; but no such note shall, in whole
or in part, directly or indirectly, be refunded by any issue of stock or bonds, or by any evidences of indebtedness running for more than twelve months, without the consent of the commission. No telegraph corporation or telephone corporation shall be required, however, to apply to the commission for authority to issue stocks, bonds, notes or other evidence of indebtedness except for the acquisition of property, the construction, completion, extension or improvement of its facilities, or the improvement or maintenance of its service within the state, or the discharge or refunding of obligations, or reimbursement of moneys actually expended for such purposes. The commission shall have power to require every such corporation to file with the commission after the issuance of stocks, bonds, notes or other evidences of indebtedness issued with or without the approval of the commission as provided in this section, a notice of such transaction in such form as the commission may prescribe. The commission shall have no power to authorize the capitalization of any franchise or right to be a corporation, nor to authorize the capitalization of any franchise or the right to own, operate or enjoy any franchise whatsoever in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or any political subdivision thereof, as the consideration of the grant of such franchise or right, nor to authorize the issuance of any stocks or other securities for any purposes other than those enumerated in this section. Nor shall the corporate stock of the corporation formed by the merger or consolidation of two or more other corporations exceed the sum of the capital stock of the corporations so consolidated, at the par value thereof, or such sum and any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger. Notwithstanding the foregoing provisions of this section, any application for approval under this section shall be deemed granted by the commission forty-five days after such application is filed for approval, unless the commission, or its designee, determines and informs the applicant in writing within such forty-five day period that the public interest requires the commission's review and its written order.

S 2. This act shall take effect immediately.