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I N   A S S E M B L Y

May 14, 2014

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Introduced by M. of A. BRENNAN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to service performance standards for telephone corporations

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

1     Section 1. Section 95 of the public service law is amended by adding a  
2     new subdivision 4 to read as follows:

3     4. (A) ALL SERVICE PROVIDERS, AS DEFINED IN SECTION ONE HUNDRED THREE  
4     OF THIS ARTICLE, SHALL FILE WITH THE COMMISSION FOR EACH AND EVERY MONTH  
5     A REPORT SETTING FORTH THE COMPLIANCE RATE OF THE SERVICE PROVIDER WITH  
6     RESPECT TO THE MONTHLY SERVICE PERFORMANCE STANDARDS ESTABLISHED BY THE  
7     COMMISSION PURSUANT TO SECTION ONE HUNDRED THREE OF THIS ARTICLE. ALL  
8     SUCH REPORTS SHALL BE PUBLIC DOCUMENTS AND SHALL BE POSTED ON THE  
9     WEBSITE OPERATED AND MAINTAINED BY THE COMMISSION. THE INFORMATION OR  
10    DATA CONTAINED IN SUCH REPORTS SHALL CONSTITUTE STATISTICAL OR FACTUAL  
11    TABULATION OR DATA AND SHALL NOT BE EXEMPT FROM DISCLOSURE PURSUANT TO  
12    ARTICLE SIX OF THE PUBLIC OFFICERS LAW.

13    (B) ALL SUCH REPORTS SHALL BE DISAGGREGATED BY SERVICE PROVIDER; AND  
14    BY REGIONS AND SUBREGIONS, AS DETERMINED BY THE COMMISSION, TO ENSURE  
15    THAT ALL GEOGRAPHIC AREAS AND CUSTOMERS IN THE STATE ARE EQUALLY MEAS-  
16    URED AND COUNTED.

17    (C) THE COMMISSION SHALL NOT BE AUTHORIZED TO WAIVE, REDUCE, RELAX OR  
18    ELIMINATE ANY REPORTING REQUIREMENTS SET FORTH IN THIS SUBDIVISION.

19    S 2. The public service law is amended by adding a new section 103 to  
20    read as follows:

21    S 103. SERVICE PERFORMANCE STANDARDS. 1. DEFINITIONS. FOR THE PURPOSES  
22    OF THIS ARTICLE, THE TERMS:

23    (A) "SERVICE PERFORMANCE STANDARDS" SHALL MEAN ANY METRIC OR PERFORM-  
24    ANCE STANDARD OR THRESHOLD ESTABLISHED BY THE COMMISSION AS OF JANUARY  
25    FIRST, TWO THOUSAND TEN THAT EACH SERVICE PROVIDER IS EXPECTED TO MEET  
26    RELATING TO MAINTENANCE SERVICE, INSTALLATIONS, NETWORK PERFORMANCE,  
27    ANSWER TIME, AND ANY OTHER STANDARD THAT MEASURES QUALITY AND ADEQUACY  
28    OF SERVICE.

29    (B) "SERVICE PROVIDER" SHALL MEAN A TELEPHONE CORPORATION CERTIFIED BY  
30    THE COMMISSION PURSUANT TO THIS CHAPTER WITH THE AUTHORITY AND TARIFF TO

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

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1 PROVIDE LOCAL EXCHANGE SERVICE IN THIS STATE THAT IS OFFERING FIXED  
2 WIRELESS TELEPHONE SERVICES IN THIS STATE.

3 2. SERVICE PERFORMANCE STANDARDS. (A) THE COMMISSION SHALL ESTABLISH  
4 SERVICE PERFORMANCE STANDARDS THAT SHALL BE APPLICABLE TO ALL SERVICE  
5 PROVIDERS. UPON THE ESTABLISHMENT OR APPROVAL OF ANY SUCH STANDARD,  
6 EXCEPT DURING PERIODS OF EMERGENCY, CATASTROPHE, DISASTER OR ANY OTHER  
7 EXTRAORDINARY EVENT THAT IS BEYOND THE CONTROL OF A SERVICE PROVIDER AS  
8 DETERMINED BY THE COMMISSION, THE COMMISSION MAY NOT WAIVE, REDUCE,  
9 RELAX OR ELIMINATE ANY SERVICE PERFORMANCE STANDARD FOR ANY INDIVIDUAL  
10 SERVICE PROVIDER.

11 (B) THE EXISTENCE OF ALTERNATE OR OTHER SERVICE PROVIDERS WITHIN THE  
12 SAME SERVICE AREA OR ANY OTHER FACTORS RELATING TO COMPETITION SHALL NOT  
13 BE A FACTOR, GROUND OR BASIS IN ANY DETERMINATION TO ESTABLISH, REDUCE,  
14 RELAX OR ELIMINATE A SERVICE PERFORMANCE STANDARD.

15 3. REPORTS. ALL SERVICE PERFORMANCE REPORTS SUBMITTED TO THE COMMIS-  
16 SION BY A SERVICE PROVIDER OR ANY OTHER ENTITY THAT PROVIDES TELEPHONE  
17 SERVICES SHALL BE PREPARED, FILED AND MADE AVAILABLE PURSUANT TO SUBDI-  
18 VISION FOUR OF SECTION NINETY-FIVE OF THIS ARTICLE.

19 4. PENALTIES. NOTWITHSTANDING THE PROVISIONS OF SECTION TWENTY-FIVE OF  
20 THIS CHAPTER, ANY SERVICE PROVIDER AND THE OFFICERS, AGENTS AND EMPLOY-  
21 EES OF SUCH CORPORATION THAT FAILS OR NEGLECTS TO MEET ANY ONE OF THE  
22 SERVICE PERFORMANCE STANDARDS ESTABLISHED BY THE COMMISSION SHALL  
23 FORFEIT TO THE STATE OF NEW YORK A SUM NOT TO EXCEED THE GREATER OF:

24 (A) FIVE HUNDRED THOUSAND DOLLARS CONSTITUTING A CIVIL PENALTY FOR  
25 EACH FAILURE OR NEGLECT TO MEET ANY ONE OF THE SERVICE PERFORMANCE STAN-  
26 DARDS. THE FAILURE OR NEGLECT TO MEET ANY SERVICE PERFORMANCE STANDARD  
27 FOR TWO CONSECUTIVE REPORTING PERIODS SHALL RESULT IN THE FORFEITURE OF  
28 ONE MILLION DOLLARS FOR EACH FAILURE OR NEGLECT; OR

29 (B) THREE TIMES THE AMOUNT OF THE COST OF MEETING AND COMPLYING WITH  
30 THE SERVICE PERFORMANCE STANDARD, AS DETERMINED BY THE COMMISSION.

31 5. (A) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NO  
32 SERVICE PROVIDER MAY OFFER OR PROVIDE FIXED WIRELESS TELEPHONE OR COMMU-  
33 NICATION SYSTEMS, SERVICES OR PRODUCTS, NOR MAY THE COMMISSION AUTHOR-  
34 IZE, PERMIT OR APPROVE ANY SERVICE PROVIDER TO OFFER OR PROVIDE SUCH  
35 SYSTEMS, SERVICES OR PRODUCTS, TO ANY PERSON IN THIS STATE UNTIL AND  
36 UNLESS THE COMMISSION HAS DETERMINED THAT SUCH SERVICE PROVIDER HAS MET,  
37 AND FULLY COMPLIED WITH, EACH AND EVERY MONTHLY PERFORMANCE STANDARD  
38 ESTABLISHED BY THE COMMISSION FOR SUCH SERVICE PROVIDER IN EACH AND  
39 EVERY SERVICE REGION OR AREA SERVED BY THE SERVICE PROVIDER FOR A PERIOD  
40 OF AT LEAST TWELVE MONTHS.

41 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-  
42 SION: (I) A SERVICE PROVIDER MAY REPLACE A COPPER-BASED WIRELINE COMMU-  
43 NICATION NETWORK WITH A WIRELESS SYSTEM FOR ANY CUSTOMER WHO, AFTER  
44 RECEIVING APPROPRIATE NOTICE AND INFORMATION FROM THE SERVICE PROVIDER,  
45 CONSENTS TO SUCH REPLACEMENT ON FORMS PREPARED OR APPROVED BY THE  
46 COMMISSION; AND (II) THE COMMISSION, IN THE AFTERMATH OF A WEATHER-RE-  
47 LATED NATURAL EVENT OR EMERGENCY, MAY AUTHORIZE A SERVICE PROVIDER TO  
48 TAKE ANY ACTIONS THAT ARE OTHERWISE PROHIBITED BY THIS SECTION.

49 S 3. Severability clause. If any clause, sentence, paragraph, section  
50 or part of this act shall be adjudged by any court of competent juris-  
51 diction to be invalid, the judgment shall not affect, impair, or invali-  
52 date the remainder thereof, but shall be confined in its operation to  
53 the clause, sentence, paragraph, section or part thereof directly  
54 involved in the controversy in which the judgment shall have been  
55 rendered.

56 S 4. This act shall take effect immediately.