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

7321

I N S E N A T E

May 12, 2014

Introduced by Sen. TKACZYK -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

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

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

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

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

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

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

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

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

(A) "SERVICE PERFORMANCE STANDARDS" SHALL MEAN ANY METRIC OR PERFORMANCE STANDARD OR THRESHOLD ESTABLISHED BY THE COMMISSION AS OF JANUARY FIRST, TWO THOUSAND TEN THAT EACH SERVICE PROVIDER IS EXPECTED TO MEET RELATING TO MAINTENANCE SERVICE, INSTALLATIONS, NETWORK PERFORMANCE,

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

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ANSWER TIME, AND ANY OTHER STANDARD THAT MEASURES QUALITY AND ADEQUACY OF SERVICE.

(B) "SERVICE PROVIDER" SHALL MEAN A TELEPHONE CORPORATION CERTIFIED BY THE COMMISSION PURSUANT TO THIS CHAPTER WITH THE AUTHORITY AND TARIFF TO PROVIDE LOCAL EXCHANGE SERVICE IN THIS STATE THAT IS OFFERING FIXED WIRELESS TELEPHONE SERVICES IN THIS STATE.

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

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

3. REPORTS. ALL SERVICE PERFORMANCE REPORTS SUBMITTED TO THE COMMISSION BY A SERVICE PROVIDER OR ANY OTHER ENTITY THAT PROVIDES TELEPHONE SERVICES SHALL BE PREPARED, FILED AND MADE AVAILABLE PURSUANT TO SUBDIVISION FOUR OF SECTION NINETY-FIVE OF THIS ARTICLE.

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

(A) FIVE HUNDRED THOUSAND DOLLARS CONSTITUTING A CIVIL PENALTY FOR EACH FAILURE OR NEGLECT TO MEET ANY ONE OF THE SERVICE PERFORMANCE STANDARDS. THE FAILURE OR NEGLECT TO MEET ANY SERVICE PERFORMANCE STANDARD FOR TWO CONSECUTIVE REPORTING PERIODS SHALL RESULT IN THE FORFEITURE OF ONE MILLION DOLLARS FOR EACH FAILURE OR NEGLECT; OR

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

5. (A) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NO SERVICE PROVIDER MAY OFFER OR PROVIDE FIXED WIRELESS TELEPHONE OR COMMUNICATION SYSTEMS, SERVICES OR PRODUCTS, NOR MAY THE COMMISSION AUTHORIZE, PERMIT OR APPROVE ANY SERVICE PROVIDER TO OFFER OR PROVIDE SUCH SYSTEMS, SERVICES OR PRODUCTS, TO ANY PERSON IN THIS STATE UNTIL AND UNLESS THE COMMISSION HAS DETERMINED THAT SUCH SERVICE PROVIDER HAS MET, AND FULLY COMPLIED WITH, EACH AND EVERY MONTHLY PERFORMANCE STANDARD ESTABLISHED BY THE COMMISSION FOR SUCH SERVICE PROVIDER IN EACH AND EVERY SERVICE REGION OR AREA SERVED BY THE SERVICE PROVIDER FOR A PERIOD OF AT LEAST TWELVE MONTHS.

(B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION: (I) A SERVICE PROVIDER MAY REPLACE A COPPER-BASED WIRELINE COMMUNICATION NETWORK WITH A WIRELESS SYSTEM FOR ANY CUSTOMER WHO, AFTER RECEIVING APPROPRIATE NOTICE AND INFORMATION FROM THE SERVICE PROVIDER, CONSENTS TO SUCH REPLACEMENT ON FORMS PREPARED OR APPROVED BY THE COMMISSION; AND (II) THE COMMISSION, IN THE AFTERMATH OF A WEATHER-RELATED NATURAL EVENT OR EMERGENCY, MAY AUTHORIZE A SERVICE PROVIDER TO TAKE ANY ACTIONS THAT ARE OTHERWISE PROHIBITED BY THIS SECTION.

S 3. Severability clause. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to

the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

S 4. This act shall take effect immediately.