

1 REQUIREMENTS THAT SHALL APPLY TO EACH TELEPHONE CORPORATION, CABLE
2 CORPORATION, OR COMBINATION TELEPHONE AND CABLE CORPORATION. 1. SERVICE
3 STANDARDS. SERVICE STANDARDS SHALL INCLUDE, BUT NOT BE LIMITED TO: (A)
4 MEASURES RELATING TO REPAIRS FOR SERVICE OUTAGES WITHIN FORTY-EIGHT
5 HOURS UNLESS A CUSTOMER OPTS OTHERWISE;

6 (B) A REQUIREMENT THAT NEW INSTALLATION ORDERS BE COMPLETED WITHIN
7 FIVE DAYS UNLESS A CUSTOMER OPTS OTHERWISE;

8 (C) A REQUIREMENT THAT EACH CORPORATION DEVELOP PROCEDURES TO PRIOR-
9 ITIZE SERVICE TO CUSTOMERS WHO ARE LIFELINE CUSTOMERS, WHO ARE SPECIAL
10 NEEDS CUSTOMERS, AND FOR CUSTOMERS WHO UTILIZE A MEDICAL ALERT SYSTEM OR
11 COMMUNICATIONS EQUIPMENT, IN CONJUNCTION WITH MEDICAL DEVICES, TO MONI-
12 TOR AND TRANSMIT MEDICAL DATA TO THEIR TREATING PHYSICIANS' MEDICAL
13 SITES.

14 2. MINIMUM PERFORMANCE LEVELS. MINIMUM PERFORMANCE LEVELS FOR EACH
15 SERVICE STANDARD SHALL BE DEVELOPED TO ENSURE THAT EACH TELEPHONE CORPO-
16 RATION, CABLE CORPORATION, OR COMBINATION TELEPHONE AND CABLE CORPO-
17 RATION IN THE STATE PROVIDE HIGH QUALITY CUSTOMER SERVICE AND HIGH QUAL-
18 ITY TECHNICAL SERVICE TO ALL THEIR CUSTOMERS.

19 3. CUSTOMER CREDITS OR REBATES. THE COMMISSION SHALL ESTABLISH A SCHE-
20 DULE OF CUSTOMER CREDITS OR REBATES, WHICH SHALL BE AWARDED TO CUSTOMERS
21 THAT EXPERIENCE SERVICE OUTAGE CONDITIONS AND FOR MISSED INSTALLATION
22 APPOINTMENTS. A SYSTEM OF GRADUATED CREDITS OR REBATES SHALL BE ESTAB-
23 LISHED FOR THOSE CUSTOMERS WHOSE SERVICE OUTAGE CONDITION WAS NOT
24 CLEARED WITHIN FORTY-EIGHT HOURS OR INSTALLATION WAS NOT COMPLETED WITH-
25 IN FIVE BUSINESS DAYS UNLESS A CUSTOMER OPTS OTHERWISE.

26 4. SERVICE QUALITY MONITORING AND REPORTING. THE COMMISSION SHALL
27 RE-ESTABLISH THE MONITORING AND MEASUREMENTS OF SERVICE QUALITY IN FORCE
28 ON JANUARY FIRST, TWO THOUSAND TEN FOR TELEPHONE CORPORATIONS AND SHALL
29 APPLY THOSE SERVICE QUALITY STANDARDS TO EACH TELEPHONE CORPORATION,
30 CABLE CORPORATION, OR COMBINATION TELEPHONE AND CABLE CORPORATION OFFER-
31 ING TELEPHONE SERVICES.

32 S 233. ADMINISTRATIVE SANCTIONS; RECOVERY OF PENALTIES. 1. EVERY TELE-
33 PHONE CORPORATION, CABLE CORPORATION, OR COMBINATION TELEPHONE AND CABLE
34 CORPORATION SHALL ADHERE TO EVERY PROVISION OF THIS CHAPTER AND EVERY
35 ORDER OR REGULATION ADOPTED UNDER AUTHORITY OF THIS CHAPTER SO LONG AS
36 THE SAME SHALL BE IN FORCE.

37 2. (A) THE COMMISSION SHALL HAVE THE AUTHORITY TO ASSESS A CIVIL
38 PENALTY AGAINST EACH TELEPHONE CORPORATION, CABLE CORPORATION, OR COMBI-
39 NATION TELEPHONE AND CABLE CORPORATION OR PERSON AND THE OFFICERS,
40 AGENTS AND EMPLOYEES THEREOF SUBJECT TO THE JURISDICTION, SUPERVISION,
41 OR REGULATION PURSUANT TO THIS CHAPTER IN AN AMOUNT AS SET FORTH IN THIS
42 SECTION. IN DETERMINING THE AMOUNT OF ANY PENALTY TO BE ASSESSED PURSU-
43 ANT TO THIS SECTION, THE COMMISSION SHALL CONSIDER: (I) THE SERIOUSNESS
44 OF THE VIOLATION FOR WHICH A PENALTY IS SOUGHT;

45 (II) THE NATURE AND EXTENT OF ANY PREVIOUS VIOLATIONS FOR WHICH PENAL-
46 TIES HAVE BEEN ASSESSED AGAINST THE TELEPHONE CORPORATION, CABLE CORPO-
47 RATION, OR COMBINATION TELEPHONE AND CABLE CORPORATION OR PERSON;

48 (III) THE GROSS REVENUES AND FINANCIAL STATUS OF THE TELEPHONE CORPO-
49 RATION, CABLE CORPORATION, OR COMBINATION TELEPHONE AND CABLE CORPO-
50 RATION OR PERSON; AND

51 (IV) SUCH OTHER FACTORS AS THE COMMISSION MAY DEEM APPROPRIATE AND
52 RELEVANT. THE REMEDIES PROVIDED IN THIS SUBDIVISION ARE IN ADDITION TO
53 ANY OTHER REMEDIES PROVIDED BY LAW.

54 (B) WHENEVER THE COMMISSION HAS REASON TO BELIEVE THAT A TELEPHONE
55 CORPORATION, CABLE CORPORATION, OR COMBINATION TELEPHONE AND CABLE
56 CORPORATION OR PERSON AND SUCH OFFICERS, AGENTS AND EMPLOYEES THEREOF

MAY BE SUBJECT TO IMPOSITION OF A CIVIL PENALTY AS SET FORTH IN THIS SUBDIVISION, IT SHALL NOTIFY SUCH CORPORATION OR PERSON. SUCH NOTICE SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO: (I) THE DATE AND A BRIEF DESCRIPTION OF THE FACTS AND NATURE OF EACH ACT OR FAILURE TO ACT FOR WHICH SUCH PENALTY IS PROPOSED; (II) A LIST OF EACH STATUTE, REGULATION OR ORDER THAT THE COMMISSION ALLEGES HAS BEEN VIOLATED; (III) THE AMOUNT OF EACH PENALTY THAT THE COMMISSION PROPOSES TO ASSESS; AND (IV) THE OPTION TO REQUEST A HEARING TO DEMONSTRATE WHY THE PROPOSED PENALTY OR PENALTIES SHOULD NOT BE ASSESSED AGAINST SUCH CORPORATION, OR SUCH PERSON.

3. ANY TELEPHONE CORPORATION, CABLE CORPORATION, OR COMBINATION TELEPHONE AND CABLE CORPORATION THAT VIOLATES A PROVISION OF THIS CHAPTER, REGULATION OR AN ORDER ADOPTED UNDER AUTHORITY OF THIS CHAPTER SO LONG AS THE SAME SHALL BE IN FORCE, OR WHO FAILS TO PROVIDE SAFE AND ADEQUATE SERVICE SHALL FORFEIT A SUM NOT EXCEEDING THE GREATER OF ONE HUNDRED THOUSAND DOLLARS OR TWO ONE-HUNDREDTHS OF ONE PERCENT OF THE ANNUAL INTRASTATE GROSS OPERATING REVENUE OF THE CORPORATION, CONSTITUTING A CIVIL PENALTY FOR EACH AND EVERY OFFENSE AND, IN THE CASE OF A CONTINUING VIOLATION, EACH DAY SHALL BE DEEMED A SEPARATE AND DISTINCT OFFENSE.

4. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION THREE OF THIS SECTION, ANY SUCH TELEPHONE CORPORATION, CABLE CORPORATION, OR COMBINATION TELEPHONE AND CABLE CORPORATION THAT VIOLATES A PROVISION OF THIS CHAPTER, OR AN ORDER OR REGULATION ADOPTED UNDER THE AUTHORITY OF THIS CHAPTER SPECIFICALLY FOR THE PROTECTION OF HUMAN SAFETY OR PREVENTION OF SIGNIFICANT DAMAGE TO REAL PROPERTY, INCLUDING, BUT NOT LIMITED TO: (A) A DEATH OR PERSONAL INJURY; OR (B) DAMAGE TO REAL PROPERTY IN EXCESS OF FIFTY THOUSAND DOLLARS, FORFEIT A SUM NOT TO EXCEED THE GREATER OF: (I) TWO HUNDRED FIFTY THOUSAND DOLLARS OR THREE ONE-HUNDREDTHS OF ONE PERCENT OF THE ANNUAL INTRASTATE GROSS OPERATING REVENUE OF THE CORPORATION, WHICHEVER IS GREATER, CONSTITUTING A CIVIL PENALTY FOR EACH SEPARATE AND DISTINCT OFFENSE; PROVIDED, HOWEVER, THAT FOR PURPOSES OF THIS PARAGRAPH, EACH DAY OF A CONTINUING VIOLATION SHALL NOT BE DEEMED A SEPARATE AND DISTINCT OFFENSE. THE TOTAL PERIOD OF A CONTINUING VIOLATION, AS WELL AS EVERY DISTINCT VIOLATION, SHALL BE SIMILARLY TREATED AS A SEPARATE AND DISTINCT OFFENSE FOR PURPOSES OF THIS PARAGRAPH; OR (II) THE MAXIMUM FORFEITURE DETERMINED IN ACCORDANCE WITH SUBDIVISION THREE OF THIS SECTION.

5. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION THREE OR FOUR OF THIS SECTION, A TELEPHONE CORPORATION, CABLE CORPORATION, OR COMBINATION TELEPHONE AND CABLE CORPORATION THAT VIOLATES A PROVISION OF THIS CHAPTER, OR AN ORDER OR REGULATION ADOPTED UNDER AUTHORITY OF THIS CHAPTER, DESIGNED TO PROTECT THE OVERALL RELIABILITY AND CONTINUITY OF SERVICE, INCLUDING BUT NOT LIMITED TO THE RESTORATION OF SERVICE FOLLOWING A MAJOR OUTAGE EVENT OR EMERGENCY, SHALL FORFEIT A SUM NOT TO EXCEED THE GREATER OF: (A) FIVE HUNDRED THOUSAND DOLLARS OR FOUR ONE-HUNDREDTHS OF ONE PERCENT OF THE ANNUAL INTRASTATE GROSS OPERATING REVENUE OF THE TELEPHONE CORPORATION, CABLE CORPORATION, OR COMBINATION TELEPHONE AND CABLE CORPORATION, WHICHEVER IS GREATER, CONSTITUTING A CIVIL PENALTY FOR EACH SEPARATE AND DISTINCT OFFENSE; PROVIDED, HOWEVER, THAT FOR PURPOSES OF THIS PARAGRAPH EACH DAY OF A CONTINUING VIOLATION SHALL NOT BE DEEMED A SEPARATE AND DISTINCT OFFENSE. THE TOTAL PERIOD OF A CONTINUING VIOLATION, AS WELL AS EVERY DISTINCT VIOLATION SHALL BE SIMILARLY TREATED AS A SEPARATE AND DISTINCT OFFENSE FOR PURPOSES OF THIS PARAGRAPH; OR

(B) THE MAXIMUM FORFEITURE DETERMINED IN ACCORDANCE WITH SUBDIVISION THREE OF THIS SECTION.

1 6. ANY OFFICER, AGENT, OR EMPLOYEE OF ANY CORPORATION DETERMINED BY
2 THE COMMISSION TO HAVE VIOLATED THE PROVISIONS OF SUBDIVISION THREE,
3 FOUR, OR FIVE OF THIS SECTION, AND WHO KNOWINGLY VIOLATES A PROVISION OF
4 THIS CHAPTER, REGULATION OR AN ORDER ADOPTED UNDER AUTHORITY OF THIS
5 CHAPTER SO LONG AS THE SAME SHALL BE IN FORCE, INCLUDING A FAILURE TO
6 PROVIDE SAFE AND ADEQUATE SERVICE, SHALL FORFEIT A SUM NOT TO EXCEED ONE
7 HUNDRED THOUSAND DOLLARS CONSTITUTING A CIVIL PENALTY FOR EACH AND EVERY
8 OFFENSE AND, IN THE CASE OF A CONTINUING VIOLATION, EACH DAY SHALL BE
9 DEEMED A SEPARATE AND DISTINCT OFFENSE.

10 7. ANY SUCH ASSESSMENT MAY BE COMPROMISED OR DISCONTINUED BY THE
11 COMMISSION. ALL MONEYS RECOVERED PURSUANT TO THIS SECTION, TOGETHER WITH
12 THE COSTS THEREOF, SHALL BE REMITTED TO, OR FOR THE BENEFIT OF, THE
13 RATEPAYERS IN A MANNER TO BE DETERMINED BY THE COMMISSION.

14 8. UPON A FAILURE BY A TELEPHONE CORPORATION, CABLE CORPORATION, OR
15 COMBINATION TELEPHONE AND CABLE CORPORATION OR PERSON TO REMIT ANY
16 PENALTY ASSESSED BY THE COMMISSION PURSUANT TO THIS SECTION, THE COMMIS-
17 SION, THROUGH ITS COUNSEL, MAY INSTITUTE AN ACTION OR SPECIAL PROCEEDING
18 TO COLLECT THE PENALTY IN A COURT OF COMPETENT JURISDICTION.

19 9. ANY PAYMENT MADE BY A TELEPHONE CORPORATION, CABLE CORPORATION, OR
20 COMBINATION TELEPHONE AND CABLE CORPORATION OR PERSON AND THE OFFICERS,
21 AGENTS AND EMPLOYEES THEREOF AS A RESULT OF AN ASSESSMENT AS PROVIDED IN
22 THIS SECTION, AND THE COST OF LITIGATION AND INVESTIGATION RELATED TO
23 ANY SUCH ASSESSMENT, SHALL NOT BE RECOVERABLE FROM RATEPAYERS, SUBSCRIB-
24 ERS, OR CUSTOMERS.

25 10. IN CONSTRUING AND ENFORCING THE PROVISIONS OF THIS CHAPTER RELAT-
26 ING TO PENALTIES, THE ACT OF ANY DIRECTOR, OFFICER, AGENT OR EMPLOYEE OF
27 A TELEPHONE CORPORATION, CABLE CORPORATION, OR COMBINATION TELEPHONE AND
28 CABLE CORPORATION OR PERSON ACTING WITHIN THE SCOPE OF HIS OR HER OFFI-
29 CIAL DUTIES OR EMPLOYMENT SHALL BE DEEMED TO BE THE ACT OF SUCH TELE-
30 PHONE CORPORATION, CABLE CORPORATION, OR COMBINATION TELEPHONE AND CABLE
31 CORPORATION.

32 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
33 sion, section or part of this act shall be adjudged by any court of
34 competent jurisdiction to be invalid, such judgment shall not affect,
35 impair, or invalidate the remainder thereof, but shall be confined in
36 its operation to the clause, sentence, paragraph, subdivision, section
37 or part thereof directly involved in the controversy in which such judg-
38 ment shall have been rendered. It is hereby declared to be the intent of
39 the legislature that this act would have been enacted even if such
40 invalid provisions had not been included herein.

41 S 3. This act shall take effect immediately.