

STATE OF NEW YORK

2877

2017-2018 Regular Sessions

IN SENATE

January 18, 2017

Introduced by Sen. PARKER -- 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 quality standards, credits, reports and penalties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public service law is amended by adding a new article 12 to read as follows:

ARTICLE 12

PROVISIONS RELATING TO TELEPHONE CORPORATIONS, CABLE CORPORATIONS, AND COMBINATION TELEPHONE AND CABLE CORPORATIONS

Section 231. Definitions.

232. Service quality standards, minimum performance levels, credits, and reports.

233. Administrative sanctions; recovery of penalties.

§ 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 corporation" shall mean any person owning, controlling, operating, managing or leasing one or more cable television systems within the state.

2. "Cable television system" shall have the same meaning as set forth in section two hundred twelve of this chapter.

3. "Combination telephone and cable corporation" shall mean any telephone corporation operating in New York under common ownership with a cable corporation operating in New York or any cable corporation operating in New York under common ownership with a telephone corporation operating in New York, or any successor of either corporation.

§ 232. Service quality standards, minimum performance levels, credits, and reports. The commission shall, by regulations adopted or amended pursuant to this section, establish quality of service standards, mini-

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

LBD07509-01-7

1 minimum performance levels, customer-specific credits, and reporting
2 requirements that shall apply to each telephone corporation, cable
3 corporation, or combination telephone and cable corporation. 1. Service
4 standards. Service standards shall include, but not be limited to: (a)
5 measures relating to repairs for service outages within forty-eight
6 hours unless a customer opts otherwise;

7 (b) a requirement that new installation orders be completed within
8 five days unless a customer opts otherwise;

9 (c) a requirement that each corporation develop procedures to prior-
10 itize service to customers who are Lifeline customers, who are special
11 needs customers, and for customers who utilize a medical alert system or
12 communications equipment, in conjunction with medical devices, to moni-
13 tor and transmit medical data to their treating physicians' medical
14 sites.

15 2. Minimum performance levels. Minimum performance levels for each
16 service standard shall be developed to ensure that each telephone corpo-
17 ration, cable corporation, or combination telephone and cable corpo-
18 ration in the state provide high quality customer service and high qual-
19 ity technical service to all their customers.

20 3. Customer credits or rebates. The commission shall establish a sche-
21 dule of customer credits or rebates, which shall be awarded to customers
22 that experience service outage conditions and for missed installation
23 appointments. A system of graduated credits or rebates shall be estab-
24 lished for those customers whose service outage condition was not
25 cleared within forty-eight hours or installation was not completed with-
26 in five business days unless a customer opts otherwise.

27 4. Service quality monitoring and reporting. The commission shall
28 re-establish the monitoring and measurements of service quality in force
29 on January first, two thousand twelve for telephone corporations and
30 shall apply those service quality standards to each telephone corpo-
31 ration, cable corporation, or combination telephone and cable corpo-
32 ration offering telephone services.

33 § 233. Administrative sanctions; recovery of penalties. 1. Every tele-
34 phone corporation, cable corporation, or combination telephone and cable
35 corporation shall adhere to every provision of this chapter and every
36 order or regulation adopted under authority of this chapter so long as
37 the same shall be in force.

38 2. (a) The commission shall have the authority to assess a civil
39 penalty against each telephone corporation, cable corporation, or combi-
40 nation telephone and cable corporation or person and the officers,
41 agents and employees thereof subject to the jurisdiction, supervision,
42 or regulation pursuant to this chapter in an amount as set forth in this
43 section. In determining the amount of any penalty to be assessed pursu-
44 ant to this section, the commission shall consider: (i) the seriousness
45 of the violation for which a penalty is sought;

46 (ii) the nature and extent of any previous violations for which penal-
47 ties have been assessed against the telephone corporation, cable corpo-
48 ration, or combination telephone and cable corporation or person;

49 (iii) the gross revenues and financial status of the telephone corpo-
50 ration, cable corporation, or combination telephone and cable corpo-
51 ration or person; and

52 (iv) such other factors as the commission may deem appropriate and
53 relevant. The remedies provided in this subdivision are in addition to
54 any other remedies provided by law.

55 (b) Whenever the commission has reason to believe that a telephone
56 corporation, cable corporation, or combination telephone and cable

1 corporation or person and such officers, agents and employees thereof
2 may be subject to imposition of a civil penalty as set forth in this
3 subdivision, it shall notify such corporation or person. Such notice
4 shall include, but shall not be limited to: (i) the date and a brief
5 description of the facts and nature of each act or failure to act for
6 which such penalty is proposed; (ii) a list of each statute, regulation
7 or order that the commission alleges has been violated; (iii) the amount
8 of each penalty that the commission proposes to assess; and (iv) the
9 option to request a hearing to demonstrate why the proposed penalty or
10 penalties should not be assessed against such corporation, or such
11 person.

12 3. Any telephone corporation, cable corporation, or combination tele-
13 phone and cable corporation that violates a provision of this chapter,
14 regulation or an order adopted under authority of this chapter so long
15 as the same shall be in force, or who fails to provide safe and adequate
16 service shall forfeit a sum not exceeding the greater of one hundred
17 thousand dollars or two one-hundredths of one percent of the annual
18 intrastate gross operating revenue of the corporation, constituting a
19 civil penalty for each and every offense and, in the case of a continu-
20 ing violation, each day shall be deemed a separate and distinct offense.

21 4. Notwithstanding the provisions of subdivision three of this
22 section, any such telephone corporation, cable corporation, or combina-
23 tion telephone and cable corporation that violates a provision of this
24 chapter, or an order or regulation adopted under the authority of this
25 chapter specifically for the protection of human safety or prevention of
26 significant damage to real property, including, but not limited to: (a)
27 a death or personal injury; or (b) damage to real property in excess of
28 fifty thousand dollars, forfeit a sum not to exceed the greater of: (i)
29 two hundred fifty thousand dollars or three one-hundredths of one
30 percent of the annual intrastate gross operating revenue of the corpo-
31 ration, whichever is greater, constituting a civil penalty for each
32 separate and distinct offense; provided, however, that for purposes of
33 this paragraph, each day of a continuing violation shall not be deemed a
34 separate and distinct offense. The total period of a continuing
35 violation, as well as every distinct violation, shall be similarly
36 treated as a separate and distinct offense for purposes of this para-
37 graph; or (ii) the maximum forfeiture determined in accordance with
38 subdivision three of this section.

39 5. Notwithstanding the provisions of subdivision three or four of this
40 section, a telephone corporation, cable corporation, or combination
41 telephone and cable corporation that violates a provision of this chap-
42 ter, or an order or regulation adopted under authority of this chapter,
43 designed to protect the overall reliability and continuity of service,
44 including but not limited to the restoration of service following a
45 major outage event or emergency, shall forfeit a sum not to exceed the
46 greater of: (a) five hundred thousand dollars or four one-hundredths of
47 one percent of the annual intrastate gross operating revenue of the
48 telephone corporation, cable corporation, or combination telephone and
49 cable corporation, whichever is greater, constituting a civil penalty
50 for each separate and distinct offense; provided, however, that for
51 purposes of this paragraph each day of a continuing violation shall not
52 be deemed a separate and distinct offense. The total period of a
53 continuing violation, as well as every distinct violation shall be simi-
54 larly treated as a separate and distinct offense for purposes of this
55 paragraph; or

1 (b) the maximum forfeiture determined in accordance with subdivision
2 three of this section.

3 6. Any officer, agent, or employee of any corporation determined by
4 the commission to have violated the provisions of subdivision three,
5 four, or five of this section, and who knowingly violates a provision of
6 this chapter, regulation or an order adopted under authority of this
7 chapter so long as the same shall be in force, including a failure to
8 provide safe and adequate service, shall forfeit a sum not to exceed one
9 hundred thousand dollars constituting a civil penalty for each and every
10 offense and, in the case of a continuing violation, each day shall be
11 deemed a separate and distinct offense.

12 7. Any such assessment may be compromised or discontinued by the
13 commission. All moneys recovered pursuant to this section, together with
14 the costs thereof, shall be remitted to, or for the benefit of, the
15 ratepayers in a manner to be determined by the commission.

16 8. Upon a failure by a telephone corporation, cable corporation, or
17 combination telephone and cable corporation or person to remit any
18 penalty assessed by the commission pursuant to this section, the commis-
19 sion, through its counsel, may institute an action or special proceeding
20 to collect the penalty in a court of competent jurisdiction.

21 9. Any payment made by a telephone corporation, cable corporation, or
22 combination telephone and cable corporation or person and the officers,
23 agents and employees thereof as a result of an assessment as provided in
24 this section, and the cost of litigation and investigation related to
25 any such assessment, shall not be recoverable from ratepayers, subscri-
26 bers, or customers.

27 10. In construing and enforcing the provisions of this chapter relat-
28 ing to penalties, the act of any director, officer, agent or employee of
29 a telephone corporation, cable corporation, or combination telephone and
30 cable corporation or person acting within the scope of his or her offi-
31 cial duties or employment shall be deemed to be the act of such tele-
32 phone corporation, cable corporation, or combination telephone and cable
33 corporation.

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

43 § 3. This act shall take effect immediately.