

STATE OF NEW YORK

1871

2019-2020 Regular Sessions

IN SENATE

January 17, 2019

Introduced by Sen. COMRIE -- 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 the provision of wireless communication services; and repealing certain provisions of such law relating thereto

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

1 Section 1. Subdivision 6 of section 5 of the public service law is
2 REPEALED.

3 § 2. Section 92-h of the public service law is REPEALED.

4 § 3. The public service law is amended by adding a new article 12 to
5 read as follows:

ARTICLE 12

PROVISIONS RELATING TO WIRELESS COMMUNICATION SERVICES

6 Section 250. Statement of policy.

7 251. Definitions.

8 252. Applicability of article.

9 253. Duties of the commission in respect to wireless communi-
10 cation services companies.

11 254. Powers of the commission in respect to wireless services
12 companies.

13 255. Costs and expenses of the commission and department and
14 assessment thereof related to the regulation of wireless
15 services companies.

16 256. Municipal fees; taxes or charges.

17 257. Construction of systems.

18 258. Requirement for adequate service.

19 259. Consumer protection.

20 260. Rates.

21 261. Forfeiture.

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

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1 262. Investigations by commission.

2 263. Authority of the commission.

3 264. Duties of the commission in respect to New York state
4 supplemental lifeline discounted service for wireless
5 communication services.

6 265. Reporting requirements for disruptions to wireless communi-
7 cation services.

8 § 250. Statement of policy. The last decade has produced radical
9 change throughout the telecommunications industry. Previously, voice and
10 video were distinct services, with different technology platforms, capa-
11 bilities and benefits. This is no longer the case. The internet and
12 broadband connections to the internet have disrupted the conventional
13 wisdom that previously governed the mechanisms, business models and
14 regulatory construct for voice, cable and data communications.

15 Voice service enables real-time voice communications and provides
16 access to E911 services. Where telecommunication was previously a
17 terrestrial service provided over copper cable, telecommunication today
18 includes wireline, wireless, and broadband-based services. Broadband and
19 wireless networks have enabled the emergence of video communications
20 along with the rise of text messaging and email as further mechanisms
21 for real-time connections. These powerful uses of technology are indic-
22 ative of how broadband and wireless networks are radically altering the
23 societal norms of interactive communication.

24 There has been a migration from traditional voice communications over
25 a wireline service to wireless services. An increasingly large percent-
26 age of households use wireless phones as their primary or only means of
27 telephone service and such households increasingly use wireless phones
28 for broadband access as well. The vast majority of residents and busi-
29 nesses in the state utilize wireless communication services to aid their
30 health, safety and welfare. Wireless communication will continue to
31 expand as new network infrastructure is developed to allow consumers to
32 access the internet at faster speeds. As this expansion occurs, consum-
33 ers no doubt will continue to have various complaints regarding their
34 wireless communication services such as billing, call quality, contract
35 early-termination, customer service, carrier marketing and advertising,
36 number portability, and equipment.

37 In light of these new circumstances, the legislature determines that
38 there is an over-reliance on market competition to regulate wireless
39 communication services companies and that the over twenty year suspen-
40 sion on regulating cellular telephone services in this chapter should be
41 lifted and repealed.

42 While congress and the federal communications commission have juris-
43 isdiction over the entry into and exit out of the market and the rates for
44 wireless services, New York state has jurisdiction over consumer
45 protection, service quality, emergency reporting and ensuring universal
46 service. Accordingly, there is a need for a state agency to determine
47 state wireless communications policy, to both ensure that wireless
48 communication services companies provide adequate service and consumer
49 protections to their subscribers; and oversee the development of a wire-
50 less service industry responsive to community and public interest,
51 consonant with federal regulations and statutes.

52 The commission is the agency best suited to oversee the continued
53 development of the wireless communication services industry in this
54 state in accordance with a statewide wireless services plan and consist-
55 ent with state communications policy generally, to set service quality

standards and ensure compliance, to receive and address customer complaints, and enforce customer protections.

§ 251. Definitions. The words and phrases used in this article shall have the following meanings unless a different meaning clearly appears in the context.

1. "Downgrade" shall mean a change in service initiated by the subscriber to a less expensive service tier than the one currently subscribed to.

2. "Gross annual receipts" shall mean any and all compensation received directly or indirectly by a wireless communication services company from its operations within the state, including but not limited to, sums received from subscribers or users in payment for wireless communication services, advertising and carrier service revenue and any other moneys that constitute income in accordance with the system of accounts approved by the commission.

3. "Person" shall mean any individual, trustee, partnership, association, corporation or other legal entity.

4. "Service tier" shall mean a category of wireless communication services or other services provided by a wireless communication services company and for which a rate or fee is charged by the wireless communication services company.

5. "State agency" shall mean any office, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state.

6. "Wireless communication services company" shall mean any person owning, controlling, operating, managing or leasing one or more wireless communication services systems within the state.

7. "Wireless communication services system" shall mean any system which operates for hire, the service of providing real time communication wirelessly, including but not limited to, cellular phones.

§ 252. Applicability of article. The provisions of this article shall apply to every wireless communication services system and every wireless communication services company.

§ 253. Duties of the commission in respect to wireless communication services companies. The commission shall:

1. develop and maintain a statewide plan for the development of wireless communication services, setting forth the objectives which the commission deems to be of regional and state concern;

2. prescribe standards for the construction and operation of wireless communication services systems, which standards shall be designed to promote (a) safe, adequate and reliable service to subscribers, (b) the construction and operation of systems consistent with the most advanced technology when practicable, (c) a construction schedule providing for maximum penetration as rapidly as possible within the limitations of economic feasibility, (d) the construction of systems with facilities to provide service in areas conforming to various community interests, facilities with the technical capacity for interconnection with other systems within the regions as established in the commission's statewide plan and facilities capable of transmitting signals from subscribers to the wireless communication services company or to other points, and (e) the prompt handling of inquiries, complaints and requests for repairs;

3. represent the interests of the people of the state before the federal communications commission and other appropriate federal agencies and make available information on wireless communication developments at the federal level;

1 4. maintain liaison with the wireless communications industry and
2 parties, both public and private, having an interest therein, other
3 states and agencies of this state to promote the rapid harmonious devel-
4 opment of wireless communication services as set forth in the statement
5 of policy under section two hundred fifty of this article;

6 5. undertake such studies as may be necessary to meet the responsibil-
7 ities and objectives of this article;

8 6. implement the provisions of this article in a manner which is
9 cognizant of the differing financial and administrative capabilities of
10 companies of different sizes;

11 7. encourage and cooperate with other state agencies that collect
12 information from wireless communication services companies to eliminate
13 duplicative reporting requirements.

14 § 254. Powers of the commission in respect to wireless services compa-
15 nies. 1. The commission may promulgate, issue, amend and rescind such
16 orders, rules and regulations as it may find necessary or appropriate to
17 carry out the purposes of this article. Such orders, rules and regu-
18 lations may classify persons and matters within the jurisdiction of the
19 commission and prescribe different requirements for different classes of
20 persons or matters. A copy of any order, rule or regulation promulgated
21 hereunder shall be subject to public inspection during reasonable busi-
22 ness hours and posted on the commission's website.

23 2. The commission may require wireless communication services compa-
24 nies to maintain and file such reports, contracts and statements,
25 including but not limited to ownership, accounting, auditing and operat-
26 ing statements, engineering reports and other data as the commission may
27 deem necessary or appropriate to administer the provisions of this arti-
28 cle. The commission, including members of its staff, may make reason-
29 able inspections of the records and facilities of any wireless communi-
30 cation services company.

31 3. The commission may examine, under oath, all officers, agents,
32 employees and stockholders of any wireless communication services compa-
33 ny, municipal officials and any other persons and compel the production
34 of papers and the attendance of witnesses to obtain the information
35 necessary to administer the provisions of this article.

36 4. The commission may require and receive from any agency of the state
37 or any political subdivision thereof such assistance and data as may be
38 necessary to enable the commission to administer the provisions of this
39 article.

40 5. The commission shall have and may exercise all other powers neces-
41 sary or appropriate to carry out the purposes of this article.

42 § 255. Costs and expenses of the commission and department and assess-
43 ment thereof related to the regulation of wireless services companies.

44 1. All costs and expenses of the department and commission related to
45 wireless communication services companies shall be paid pursuant to
46 appropriation in the first instance from the state treasury, on the
47 certification of the chair of the department and upon the audit and
48 warrant of the comptroller. The state treasury shall be reimbursed
49 therefor by payments to be made from moneys collected pursuant to this
50 article.

51 2. Notwithstanding the provisions of subdivision one of this section,
52 by February first of each year, the chair of the department shall esti-
53 mate the total direct and indirect costs and expenses necessary to oper-
54 ate and administer the powers and duties of the commission and depart-
55 ment relating to wireless communication services companies for the
56 ensuing state fiscal year. The chair shall, prior to March first, bill

1 and collect from each wireless communication services company an amount
2 computed by multiplying such total estimated operating expenses of the
3 commission by a fraction, the numerator of which is the gross annual
4 receipts of such wireless communication services company during the last
5 preceding calendar year or other twelve month period as determined by
6 the chair, and the denominator of which is the total annual gross
7 receipts of all wireless communication services companies operating in
8 the state during such period. A wireless communication services company
9 may elect to make partial payments equal to one quarter of the total
10 amount billed, by March tenth of the preceding fiscal year to which the
11 billing relates, or on such other dates as the director of the budget
12 may require. On or before September thirtieth of each year, the chair
13 shall compute the actual direct and indirect costs and expenses of the
14 commission for wireless communication services regulation for the
15 preceding state fiscal year and shall compute the amount actually
16 received as reimbursement for the preceding state fiscal year. If such
17 amount collected by the department as reimbursement for the preceding
18 fiscal year is less than the direct and indirect costs and expenses
19 incurred by the commission and the department for wireless communication
20 services regulation during such preceding fiscal year, the chair shall,
21 on or before October fifteenth of each year, bill each wireless communi-
22 cation services company for its proportionate share of the deficit. Any
23 amount owing by any wireless communication services company shall be
24 payable not later than thirty days following the date of such bill. Any
25 amount owed by any wireless communication services company which remains
26 unpaid by May first of the following year shall be included in the esti-
27 mate of the total direct and indirect costs and expenses necessary to
28 operate and administer the powers and duties of the commission and the
29 department related to wireless communication services regulation for the
30 current state fiscal year. If the amount collected for a fiscal year is
31 more than the direct and indirect costs and expenses related to wireless
32 communication services regulation incurred by the commission and the
33 department during such fiscal year, the chair shall, on or before Octo-
34 ber fifteenth of the following year, refund or credit each wireless
35 communication services company for its proportionate share of the
36 surplus. Any amount standing to the credit of any wireless communication
37 services company shall be applied as a credit against any succeeding
38 payment due. In no event shall the amount billed to or collected from
39 any wireless communication services company pursuant to this section
40 exceed two percent of the gross annual receipts of such company during
41 the twelve month period designated by the commission.

42 § 256. Municipal fees; taxes or charges. Nothing in this article shall
43 be construed to limit the power of any municipality to impose upon any
44 wireless communication services company, a fee, tax or charge, provided
45 that any such fee, tax or charge when added to the amount payable to the
46 commission pursuant to section two hundred fifty-five of this article
47 does not exceed the maximum amount permitted by applicable federal law,
48 rules or regulations.

49 § 257. Construction of systems. Every wireless communication services
50 system constructed after April first, two thousand twenty shall comply
51 with such construction standards as the commission may prescribe pursu-
52 ant to subdivision two of section two hundred fifty-three of this arti-
53 cle.

54 § 258. Requirement for adequate service. 1. Every wireless communi-
55 cation services company shall provide safe, adequate and reliable
56 service in accordance with applicable laws and regulations.

2. Whenever, upon complaint or upon its own motion, and after public notice and opportunity for hearing, the commission finds that, despite its economic feasibility, the construction or operation of a wireless communication services system has been unreasonably delayed or that the extension of service to any persons or areas has been unreasonably withheld, it may order such construction, operation or extension on such terms and conditions as it deems reasonable and in the public interest.

3. Whenever, upon complaint or upon its own motion and after a public hearing and opportunity for hearing, the commission finds that a wireless communication services company is not meeting the service requirements and obligations imposed by this article or by the regulations promulgated hereunder, it may order compliance therewith on such terms and conditions as it deems reasonable and in the public interest.

4. The commission shall designate areas where significant inconsistent installations of wireless communication services systems may be proposed, and, as appropriate, conduct public hearings in such areas. The commission shall also conduct such other proceedings as are necessary to determine whether such inconsistent installations will have an adverse impact on the character of said areas and are warranted by economic and technical circumstances.

§ 259. Consumer protection. 1. Notification of commission. Every wireless communication services company shall notify the commission of any service change no later than the later occurrence of forty-five days prior to the network change or five business days after the wireless communication services company first knows of such change.

2. Notification of subscribers. (a) Every wireless communication services company shall notify each of its subscribers who are affected by a network change of such change no later than the later occurrence of thirty days prior to such change or thirty days after the wireless communication services company first knows of such change.

(b) Such notice shall be given to each affected subscriber in any one of the following forms:

(1) by the mailing of a separate written notice to the subscriber's billing address of record;

(2) by a written notation printed on the subscriber's regular billing statement; or

(3) by written notice accompanying the subscriber's regular billing statement.

(c) Upon application of a wireless communication services company, the commission may order that no notice need be provided pursuant to this subdivision upon a written finding following standards to be promulgated by the commission that a change was not a network change.

(d) Upon application of a wireless communication services company, the commission may order that an applicable form of notice as defined in paragraph (b) of this subdivision or notice period as provided in paragraph (a) of this subdivision be changed for a particular notice, upon a written finding that such an order is in the best interests of the subscribers or is otherwise warranted for reasons of practicality. Upon a written finding that a wireless communications services company's compliance with subparagraph two of paragraph (b) of this subdivision is technically unfeasible, the commission may grant to such company a general waiver pursuant to this paragraph and shall notify the commission within three days if compliance becomes technically feasible.

(e) Upon application of a subscriber or upon its own motion, the commission may order that a particular notice be sent to subscribers as the commission shall determine to be appropriate. The commission shall

1 make such order only upon finding that the subscribers who shall receive
2 notice thereunder will be affected by the network change.

3 (f) Notification under this subdivision shall include a description of
4 the subscriber's rights under this section, as applicable.

5 3. Failure to give notice. If a wireless communication services compa-
6 ny fails to comply with the notice requirements under subdivision two of
7 this section, any subscribers affected thereby may downgrade or termi-
8 nate their service without charge at any time up to thirty days after
9 the date on which proper notice of such change is provided and such
10 downgrade or termination shall be deemed effective for billing purposes
11 on the date of such change.

12 4. Rate, programming, service and equipment information. (a) Each
13 wireless communication services company shall provide to each of its
14 subscribers at the time of the initial subscription and at least semi-
15 annually thereafter a written description, materially accurate as of the
16 first day of the previous month, of all the services offered on the
17 wireless communication services system and of the rates and charges
18 relating to such services; provided however, that with respect to the
19 provision of such description to new subscribers the wireless communi-
20 cation services company shall also provide any notices required by this
21 article not included in such written description that have been provided
22 to current subscribers as of the date of the initial subscription. Such
23 written description shall, in addition, contain a statement of signif-
24 icant rights accorded to the subscriber pursuant to this article and any
25 other law, rules or regulations promulgated pursuant thereto, such
26 statement to be in a form approved by, or at the option of the wireless
27 communication services company, prepared and revised as appropriate on a
28 quarterly basis by the commission. The commission may extend the time
29 within which a wireless communication services company must make its
30 semi-annual mailing where such an extension is in the interest of such
31 company's subscribers or is otherwise warranted for reasons of practi-
32 cality. Upon a finding that a wireless communication services company
33 bills its subscribers only on an annual basis by use of a coupon book,
34 and makes no other regular mailing to subscribers more than quarterly,
35 the commission shall allow such wireless communication services company
36 to mail such written description to its subscribers annually.

37 (b) Each wireless communication services company shall provide to each
38 person who requests information concerning rates, service charges or
39 procedures, or who requests any change of service, a written
40 description, materially accurate as of the first day of the previous
41 month, of the programs and services offered and of the rates and charges
42 relating to such services. Such written description shall, in addition,
43 contain a statement of significant rights accorded to the subscriber
44 pursuant to this article and any other law, rules or regulations promul-
45 gated pursuant thereto, such statement to be in a form approved by, or
46 at the option of the wireless communication services company, prepared
47 and revised as appropriate on a quarterly basis, by the commission. Any
48 person who makes such a request in person to a wireless communication
49 services company customer service representative or salesperson must
50 immediately be supplied with a copy of such written description. Any
51 person who makes a request by telephone must be supplied with such writ-
52 ten description sent by first class mail or at the consent of the
53 requester, by email, within ten business days of such request.

54 (c) Each wireless communication services company shall provide each
55 customer service representative and each salesperson with copies of the

1 most current written description and shall advise them of the require-
2 ments of this section.

3 5. Downgrade and termination following notice of a network change.
4 Where an affected subscriber, following receipt of the notice required
5 under paragraph (a) of subdivision two of this section, elects in
6 person, in writing, by email or by telephone within forty-five days of
7 receiving such notice to have service terminated or to downgrade, no
8 charge may be imposed by the wireless communication services company for
9 such downgrade or termination.

10 6. (a) Whenever, upon complaint or upon its own motion, and after
11 giving public notice and an opportunity for a public evidentiary hear-
12 ing, which accords due process to the wireless communication services
13 company, the commission finds that a wireless communication services
14 company has not complied with any provision of this section, the commis-
15 sion shall order such compliance therewith and may order such penalty as
16 is hereinafter provided.

17 (b) A determination of the commission, after the procedures set forth
18 in paragraph (a) of this subdivision have been complied with, that a
19 wireless communication services company has failed to comply with any
20 provision of this section shall be considered a violation of subdivision
21 one of section two hundred sixty-one of this article, and shall subject
22 such company to the imposition of a money forfeiture pursuant to said
23 subdivision. Upon a determination by the commission, upon adequate
24 record evidence, that a wireless communication services company has
25 willfully or intentionally violated the provisions of this section, or
26 that such a company has repeatedly violated such provisions so as to
27 permit a fair inference of a willful or intentional violation by such
28 company, the commission may direct such company to forfeit to the state
29 of New York a sum to be set by the commission not to exceed ten thousand
30 dollars for each such violation. If, in any twenty-four month period, a
31 wireless communication services company violates subdivision two of this
32 section on two separate occasions, such conduct shall constitute prima
33 facie evidence of repeated, willful violations.

34 (c) Nothing in this subdivision shall be construed to impair, alter,
35 limit, modify, enlarge, abrogate or restrict any right granted by statu-
36 tory or common law to the attorney general or any other person.

37 7. The commission shall adopt such other rules and regulations,
38 providing consumer protections to customers of wireless communication
39 services companies, as the commission deems necessary and proper. Such
40 regulations shall include, but not be limited to provisions governing
41 applications for service, termination, reconnection of service, customer
42 notice and customer complaints.

43 § 260. Rates. In the event the commission finds that any rate is
44 discriminatory or preferential or fails to comply with federal law or
45 regulation, the commission shall report such finding to the federal
46 communications commission and any other appropriate federal agencies.

47 § 261. Forfeiture. 1. Every wireless communication services company,
48 and all officers, agents and employees of any wireless communication
49 services company shall obey, observe and comply with every order, direc-
50 tion or requirement made by the commission, under the authority of this
51 article, so long as the same shall be and remain in force. Except as
52 provided in subdivision two of this section, any wireless communication
53 services company which shall violate any provision of this article, or
54 which fails, omits or neglects to obey, observe or comply with any order
55 or any direction or requirement of the commission, shall forfeit to the
56 people of the state of New York a sum to be set by the commission not to

1 exceed ten thousand dollars for each and every offense; every violation
2 of any such order or direction or requirement, or of this article, shall
3 be a separate and distinct offense, and, in case of a continuing
4 violation, every day's continuance thereof shall be a separate and
5 distinct offense.

6 2. Notwithstanding subdivision one of this section, any wireless
7 communication services company which (a) shall fail to make and file its
8 annual report as and when required or within such extended time as the
9 commission may allow, or (b) shall fail to make specific answers to any
10 question within the period specified by the commission for the making
11 and filing of such answers, or (c) shall fail to submit such special
12 reports as the commission may from time to time require, within the
13 period specified by the commission for the submission thereof, shall
14 forfeit to the state the sum of five hundred dollars for each and every
15 day such company shall continue to be in default with respect to such
16 annual report, answer or special report.

17 3. An action to recover a forfeiture under subdivision one or two of
18 this section may be brought at any time within one year after the cause
19 of action accrues, in any court of competent jurisdiction in this state,
20 in the name of the people of the state of New York, and shall be
21 commenced and prosecuted to final judgment by the commission. In any
22 such action all forfeitures incurred up to the time of commencing the
23 same may be sued for and recovered therein, and the commencement of an
24 action to recover a forfeiture shall not be, or be held to be, a waiver
25 of the right to recover any other penalty or forfeiture. All moneys
26 recovered in any such action, together with the costs thereof, shall be
27 paid into the state treasury to the credit of the general fund.

28 § 262. Investigations by commission. 1. The commission may of its own
29 motion investigate or make inquiry in a manner to be determined by
30 itself as to any act done or omitted to be done by any wireless communi-
31 cation services company and the commission must make such inquiry in
32 regard to any act done or omitted to be done by any wireless communi-
33 cation services company in violation of any provisions of law or in
34 violation of any order of the commission.

35 2. The commission may of its own motion or upon complaint of any
36 person or corporation aggrieved investigate and determine whether the
37 property of any wireless communication services company or person actu-
38 ally used within the state in the business of affording a wireless
39 communication services system for hire is of a value exceeding ten thou-
40 sand dollars.

41 3. Complaints may be made to the commission by the department of state
42 or by any person or corporation aggrieved, by petition or complaint in
43 writing, setting forth any act done or omitted to be done by any wire-
44 less communication services company alleged to be in violation of this
45 article or charter, or of any order or regulation of the commission.
46 Upon the presentation of such a complaint, the commission shall cause a
47 copy thereof to be forwarded to the person or corporation complained of
48 which may be accompanied by an order directed to such person or corpo-
49 ration requiring that the matters complained of be satisfied or that the
50 charges be answered in writing within a time to be specified by the
51 commission. If the person or corporation complained of shall make repa-
52 ration for any injury alleged and shall cease to commit or permit the
53 violation of law, franchise, order, or regulation charged in the
54 complaint, if any there be, and shall notify the commission of that fact
55 before the time allowed for answer, the commission need take no further
56 action upon the charges. If, however, the charges contained in such

petition are not satisfied and it shall appear to the commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper and take such action within its powers as the facts in its judgment justify.

4. Whenever the commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a wireless communication services company under this section, it shall be its duty within sixty days after final submission to make and file an order either dismissing the petition or complaint or directing the wireless communication services company complained of to satisfy the cause of complaint in whole or to the extent which the commission may specify and require.

5. (a) The commission shall have power to provide for a management and operations audit of any wireless communication services company. The commission shall have discretion to have such audits performed by its staff or by independent auditors.

(b) In every case in which the commission chooses to have the audit provided for in this subdivision performed by independent auditors, it shall have authority to select the auditors, and to require the wireless communication services company being audited to enter into a contract with the auditors providing for their payment by such company. Such contract shall provide further that the auditors shall work for and under the direction of the commission according to such terms as the commission may determine are necessary and reasonable. The commission shall not enter into any such contract with an auditor who shall have contracted with the corporation being audited within the last two years and shall require, within the terms of the contract, that such auditor will not contract with the corporation being audited until at least two years have elapsed from the date such audit was completed.

(c) The commission shall have authority to direct the company to implement any recommendations resulting from such audits that it finds to be necessary and reasonable and shall commence the first audit on or before the one hundred twentieth day after the effective date of this article.

§ 263. Authority of the commission. Nothing in this article is intended to limit, impair or affect the commission's legal authority under any other provision of this chapter.

§ 264. Duties of the commission in respect to New York state supplemental lifeline discounted service for wireless communication services.

1. The commission shall annually do all of the following:

(a) Designate a class of lifeline service necessary to meet minimum wireless communication service needs.

(b) Set the rates and charges for that service.

(c) Develop eligibility criteria for that service.

(d) Assess the degree of achievement of universal service of wireless communication services, including wireless communication services penetration rates by income, ethnicity and geography.

2. Minimum wireless communication service needs include, but are not limited to, the ability to originate and receive calls and the ability to access electronic information services.

3. The commission is authorized and empowered to require each wireless communication services provider to offer certain low-income customers the availability of certain wireless communication services and access such wireless communication services at reduced rates.

4. The commission is authorized and empowered to require wireless communication service providers to contribute to the New York state

1 Targeted Accessibility Fund for the purposes of funding New York state's
2 supplemental lifeline discounted service for wireless communication
3 services for eligible low-income customers.

4 5. The commission shall take necessary action to notify the general
5 public of the availability of lifeline services including, but not
6 limited to, public service announcements, newspaper notices, website
7 postings and any other notice reasonably calculated to reach those who
8 may benefit from the services.

9 § 265. Reporting requirements for disruptions to wireless communi-
10 cation services. 1. For the purposes of this section the term "outage"
11 shall be defined as a significant degradation in the ability of an end
12 user to establish and maintain a channel of communication as a result of
13 failure or degradation in the performance of a wireless communications
14 services system.

15 2. All wireless communication services companies shall submit elec-
16 tronically a notification to the commission within one hundred twenty
17 minutes of discovering that they have experienced on any facilities that
18 they own, operate, lease, or otherwise utilize, an outage of at least
19 thirty minutes duration:

20 (a) of a mobile switching center; or

21 (b) that potentially affects at least nine hundred thousand user
22 minutes of either telephony and associated data service or paging
23 service.

24 3. In determining the number of users potentially affected by a fail-
25 ure of a switch, a wireless communication services company shall multi-
26 ply the number of macro cell sites disabled in the outage by the average
27 number of users served per site, which is calculated as the total number
28 of users for the wireless communication services company divided by the
29 total number of the wireless communication services company's macro cell
30 sites.

31 4. For providers of paging service only, a notification must be
32 submitted if the failure of a switch for at least thirty minutes dura-
33 tion potentially affects at least nine hundred thousand user minutes.

34 5. Not later than seventy-two hours after discovering the outage, the
35 wireless communication services company shall submit electronically an
36 initial communications outage report to the commission. Not later than
37 thirty days after discovering the outage, the wireless communication
38 services company shall submit electronically a final communications
39 outage report to the commission.

40 6. The notification and initial and final reports shall comply with
41 the requirements of subdivision seven of this section.

42 7. (a) Notification and the initial and final wireless communication
43 services outage reports shall be submitted by a person authorized by the
44 wireless communication services company to submit such reports to the
45 commission. The person submitting the final report to the commission
46 shall also be authorized by the wireless communication services company
47 to legally bind the wireless communication services company to the
48 truth, completeness and accuracy of the information contained in the
49 report. Each final report shall be attested to by the person submitting
50 the report that he or she has read the report prior to submitting it and
51 under oath deposes and states that the information contained therein is
52 true, correct and accurate to the best of his or her knowledge and
53 belief, and that the wireless communication services company under oath
54 deposes and states that this information is true, complete and accurate.

55 (b) The notification shall provide: the name of the reporting entity;
56 the date and time of the onset of the outage; a brief description of the

1 problem; service effects; the geographic area affected by the outage;
2 and the contact name and contact telephone number by which the commis-
3 sion's technical staff may contact the reporting entity.

4 (c) The initial and final reports shall contain the information
5 required pursuant to paragraph (b) of this subdivision. The initial
6 report shall contain all pertinent information then available on the
7 outage and shall be submitted in good faith. The final report shall
8 contain all pertinent information on the outage, including any informa-
9 tion that was not contained in, or that has changed from that provided
10 in, the initial report.

11 (d) The notification and the initial and final wireless communication
12 services outage reports are to be submitted electronically to the
13 commission. For the purposes of this paragraph, "submitted electron-
14 ically" shall mean the submission of the information using commission-
15 approved web-based outage report templates. If there are technical
16 impediments to using the web-based system during the notification stage,
17 then a written notification to the commission by e-mail, fax or courier
18 may be used; such notification shall contain the information required
19 pursuant to this section.

20 § 4. The public service commission is hereby directed within one year
21 after the effective date of this act, and annually thereafter, to
22 conduct a study of the wireless communication services industry and its
23 regulatory framework and to report within ninety days of the commence-
24 ment of the study the results of the study to the governor, the tempo-
25 rary president of the senate, and the speaker of the assembly. Such
26 report shall include recommendations for changes in the regulation of
27 the wireless communication services industry in light of any develop-
28 ments in federal legislation or regulations pertaining to wireless
29 communication services.

30 § 5. Severability clause. If any clause, sentence, paragraph, section
31 or part of this act shall be adjudged by any court of competent juris-
32 diction to be invalid, such judgment shall not affect, impair, or inval-
33 idate the remainder thereof, but shall be confined in its operation to
34 the clause, sentence, paragraph, section or part thereof directly
35 involved in the controversy in which such judgment shall have been
36 rendered. It is hereby declared to be the intent of the legislature that
37 this act would have been enacted even if such invalid provisions had not
38 been included herein.

39 § 6. This act shall take effect on the one hundred eightieth day after
40 it shall have become a law. Effective immediately, the addition, amend-
41 ment and/or repeal of any rule or regulation necessary for the implemen-
42 tation of this act on its effective date are authorized to be made and
43 completed on or before such effective date.