STATE OF NEW YORK

5525--A

2021-2022 Regular Sessions

IN SENATE

March 9, 2021

Introduced by Sens. PARKER, HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to broadband service for low-income consumers

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

Section 1. The general business law is amended by adding a new section 399-zzzzzz to read as follows:

§ 399-zzzzzz. Broadband service for low-income consumers. 1. For the purposes of this section, the term "broadband service" shall mean a mass-market retail service that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service provided by a wireline, fixed wireless or satellite service provider, but shall not include dial-up service.

2. Every person, business, corporation, or their agents providing or seeking to provide broadband service in New York state shall, no later than sixty days after the effective date of this section, offer high speed broadband service to low-income consumers whose household: (a) is eligible for free or reduced-priced lunch through the National School Lunch Program; or (b) whose annual gross household income is not in excess of one hundred eighty-five percent of the federal poverty guidelines as updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2); or (c) is eligible for, or receiving the supplemental nutrition assistance program benefits; or (d) is eligible for, or

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

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receiving Medicaid benefits; or (e) is eligible for, or enrolled in senior citizen rent increase exemption; or (f) is eligible for, or enrolled in disability rent increase exemption; or (g) is a recipient of an affordability benefit from a utility. Such low-income broadband service shall provide a minimum download speed equal to the greater of one hundred megabits per second download speed or the download speed of the provider's existing low-income broadband service sold to customers in the state, and a minimum upload speed equal to the greater of ten megabits per second or the upload speed of the provider's existing low-income broadband service sold to customers in the state, subject to exceptions adopted by the public service commission where such speeds are unreasonable and impracticable.

3. Broadband service for low-income consumers, as set forth in this section, shall be provided at a cost of no more than five dollars per month, inclusive of any recurring taxes and fees such as recurring rental fees for service provider equipment required to obtain broadband service and usage fees. Broadband service providers shall allow low-income broadband service subscribers to purchase standalone or bundled cable and/or phone services separately. Broadband service providers may, once every five years, and after thirty days' notice to its customers and the department of public service, increase the price of this service by the lesser of the most recent change in the consumer price index or a maximum of two percent per year of the price for such service.

4. Any contract or agreement for broadband service targeted to low-income consumers provided by an entity described in subdivision two of this section, pursuant to this section or otherwise, shall have the same terms and conditions, other than price and speed set pursuant to this section, as for the regularly priced offerings for similar service provided by such entity.

5. Every person, business, corporation, or their agents providing or seeking to provide broadband service in New York state shall make all commercially reasonable efforts to promote and advertise the availability of broadband service for low-income consumers including, but not limited to, the prominent display of, and enrollment procedures for, such service on its website and in any written and commercial promotional materials developed to inform consumers who may be eligible for service pursuant to this section.

6. Every person, business, corporation, or their agents providing or seeking to provide broadband service in New York state shall annually submit to the department of public service, no later than November fifteenth after the effective date of this act, and annually thereafter, a compliance report setting forth: (a) a description of the service offered pursuant to this section; (b) the number of consumers enrolled in such service; (c) a description of the procedures being used to verify the eligibility of customers receiving such service; (d) a description and samples of the advertising or marketing efforts undertaken to advertise or promote such service; (e) a description of all retail rate products, including pricing, offered by such person, business, corporation, or their agents; (f) a description, including speed and price, of all broadband products offered in the state of New York; (g) a description of the number of customers in arrears for the payment for broadband service, percentage of customers in arrears that qualify for low-income broadband service, the number of households that have had their service terminated as a result of non-payment, the number of customers whose service was terminated for arrears arising from non-payment for services other than broadband service, and the number of house-

holds that have their broadband service restored after being delinquent on their payments; and (h) such other information as the department of public service may require.

7. The department of public service shall, within two years of the effective date of this section and at least every five years thereafter, undertake a proceeding to determine if the minimum broadband download speed in this section should be increased to the federal communications commission's benchmark broadband download speed, or to another minimum broadband download speed if the federal communications commission has not increased its benchmark by such date. The department of public service shall also: (a) undertake appropriate measures to inform the public about available broadband products, including retail rate product offerings and low-income offerings; and (b) periodically, but no less than once every five years, review eligibility requirements for the low-income service required pursuant to this section, and update such requirements as may be necessary to meet the needs of consumers.

8. Whenever there shall be a violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violation; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violations, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not more than one thousand dollars per violation. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

§ 2. This act shall take effect on the thirtieth day after it shall have become a law.