STATE OF NEW YORK

1203--A

Cal. No. 292

2023-2024 Regular Sessions

IN SENATE

January 10, 2023

Introduced by Sens. PARKER, HINCHEY, KENNEDY -- 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 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general business law, in relation to establishing a moratorium prohibiting certain broadband terminations or disconnections during a state disaster emergency

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. Prohibition of certain broadband terminations or disconnections. 1. For the purposes of this section, the following terms shall have the following meanings:

(a) "broadband internet access 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, and shall include service provided by commercial mobile telephone service providers, but shall not include dial-up internet service; and

(b) "covered telephone corporation" means a "telephone corporation" as defined in subdivision seventeen of section two of the public service law that provided telephone exchange service on or before February eighth, nineteen hundred ninety-six.

2. No covered telephone corporation, person, business, corporation, or their agents providing or seeking to provide broadband internet access service in New York state shall terminate or disconnect services

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

LBD04534-02-4

provided over their infrastructure to a residential service customer or a small business customer with twenty-five or fewer employees that is not a (i) publicly held company, or a subsidiary thereof, (ii) seasonal, short-term, or temporary customer, or (iii) customer that the broadband internet access service provider can demonstrate has the resources to pay the bill, provided that the broadband service provider notifies the small business customer of its reasons and of the customer's right to contest this determination through the commission's complaint procedures, for the non-payment of an overdue charge for the duration of a state disaster emergency declared pursuant to section twenty-eight of the executive law in response to a state, national, or global event that is deemed to result in a significant negative and long-term impact on the state's economic future. Such persons or entities shall have a duty to restore service, to the extent not already required, at the request of any residential or small business customer within forty-eight hours if such service has been terminated during the pendency of the state disaster emergency and disconnection of such service was due to non-payment of an overdue charge.

3. No covered telephone corporation, person, business, corporation, or their agents providing or seeking to provide broadband internet access service in New York state shall terminate or disconnect services provided over their infrastructure to a residential or small business customer account because of defaulted deferred payment agreements or arrears then owed to such persons or entities when such customer has experienced a change in financial circumstances due to a state disaster emergency as set forth in subdivision two of this section. The covered telephone corporation, person, business, corporation, or their agents providing or seeking to provide broadband internet access service in New York state shall provide such residential or small business customer with the right to enter into, or restructure, a deferred payment agreement consistent with the provisions of article two of the public service law without the requirement of a down payment, late fees, or penalties, with such prohibition on down payments, late fees, or penalties applicable to all arrears incurred during the duration of the state disaster emergency.

4. Every covered telephone corporation, person, business, corporation, or their agents providing or seeking to provide broadband internet access service in New York state shall provide notice to residential or small business customers in a writing to be included with a bill statement or, when appropriate, via electronic transmission the provisions of this section and shall further make reasonable efforts to contact customers who have certified a change in financial circumstances due to a state disaster emergency as set forth in subdivision two of this section for the purpose of offering such customers a deferred payment agreement consistent with the provisions of article two of the public service law.

5. Implementation of the provisions of this section shall not prohibit a covered telephone corporation, person, business, corporation, or their agents providing or seeking to provide broadband internet access service in New York state from recovering lost or deferred revenues after the lifting or expiration of a state disaster emergency as set forth in subdivision two of this section, pursuant to such means for recovery by means not inconsistent with any of the provisions of this section. Nothing in this section shall prohibit a covered telephone corporation, person, business, corporation, or their agents providing or seeking to provide broadband internet access service in New York state from discon-

necting service at the request of a customer. Nothing in this section shall prohibit a covered telephone corporation, person, business, corporation, or their agents providing or seeking to provide broadband internet access service in New York state from disconnecting service when it is necessary to protect the health and safety of customers and the public, provided however the customer may contest the service disconnection through a process to be created by the company.

6. 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 immediately; provided, however, that this act shall be applicable to relevant executive orders issued on or after the effective date of this act.