

STATE OF NEW YORK

1203

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

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 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, and shall include service provided by commercial mobile telephone service providers, but shall not include dial-up service.

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

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

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1 global event that is deemed to result in a significant negative and
2 long-term impact on the state's economic future. Such persons or enti-
3 ties shall have a duty to restore service, to the extent not already
4 required, at the request of any residential or small business customer
5 within forty-eight hours if such service has been terminated during the
6 pendency of the state disaster emergency and disconnection of such
7 service was due to non-payment of an overdue charge.

8 3. No person, business, corporation, or their agents providing or
9 seeking to provide broadband service in New York state shall terminate
10 or disconnect services provided over their infrastructure to a residen-
11 tial or small business customer account because of defaulted deferred
12 payment agreements or arrears then owed to such persons or entities when
13 such customer has experienced a change in financial circumstances due to
14 a state disaster emergency as set forth in subdivision two of this
15 section. The person, business, corporation, or their agents providing or
16 seeking to provide broadband service in New York state shall provide
17 such residential or small business customer with the right to enter
18 into, or restructure, a deferred payment agreement consistent with the
19 provisions of article two of the public service law without the require-
20 ment of a down payment, late fees, or penalties, with such prohibition
21 on down payments, late fees, or penalties applicable to all arrears
22 incurred during the duration of the state disaster emergency.

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

33 5. Implementation of the provisions of this section shall not prohibit
34 a person, business, corporation, or their agents providing or seeking to
35 provide broadband service in New York state from recovering lost or
36 deferred revenues after the lifting or expiration of a state disaster
37 emergency as set forth in subdivision two of this section, pursuant to
38 such means for recovery by means not inconsistent with any of the
39 provisions of this section. Nothing in this section shall prohibit a
40 person, business, corporation, or their agents providing or seeking to
41 provide broadband service in New York state from disconnecting service
42 at the request of a customer. Nothing in this section shall prohibit a
43 person, business, corporation, or their agents providing or seeking to
44 provide broadband service in New York state from disconnecting service
45 when it is necessary to protect the health and safety of customers and
46 the public, provided however the customer may contest the service
47 disconnection through a process to be created by the company.

48 6. Whenever there shall be a violation of this section, an application
49 may be made by the attorney general in the name of the people of the
50 state of New York to a court or justice having jurisdiction by a special
51 proceeding to issue an injunction, and upon notice to the defendant of
52 not less than five days, to enjoin and restrain the continuance of such
53 violation; and if it shall appear to the satisfaction of the court or
54 justice that the defendant has, in fact, violated this section, an
55 injunction may be issued by the court or justice, enjoining and
56 restraining any further violations, without requiring proof that any

1 person has, in fact, been injured or damaged thereby. In any such
2 proceeding, the court may make allowances to the attorney general as
3 provided in paragraph six of subdivision (a) of section eighty-three
4 hundred three of the civil practice law and rules, and direct restitu-
5 tion. Whenever the court shall determine that a violation of this
6 section has occurred, the court may impose a civil penalty of not more
7 than one thousand dollars per violation. In connection with any such
8 proposed application, the attorney general is authorized to take proof
9 and make a determination of the relevant facts and to issue subpoenas in
10 accordance with the civil practice law and rules.

11 § 2. This act shall take effect immediately; provided, however, that
12 this act shall be applicable to relevant executive orders issued on or
13 after the effective date of this act.