

# STATE OF NEW YORK

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5696--A

2019-2020 Regular Sessions

## IN SENATE

May 13, 2019

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Introduced by Sens. METZGER, MAY, GALLIVAN, BIAGGI, BAILEY, BENJAMIN, BORRELLO, BOYLE, BROOKS, GAUGHRAN, GOUNARDES, HARCKHAM, HELMING, HOYLMAN, JACKSON, JORDAN, KRUEGER, LIU, MARTINEZ, MAYER, MYRIE, RIVERA, SALAZAR, SEPULVEDA, SERRANO, SKOUFIS -- 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 public service law, in relation to the public service commission reviewing broadband and fiber optic services within the state

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "comprehensive broadband connectivity act".

3 § 2. Legislative findings. The legislature hereby finds and declares  
4 that access to high-speed internet is a fundamental right and it is  
5 incumbent upon the State to ensure provision of this right to every New  
6 Yorker. Yet many areas of the state do not have access to adequate  
7 broadband services. The lack of competition in the telecommunications  
8 marketplace has been a cause of deteriorated service for customers and  
9 users of regulated telephonic and telecommunications services. The lack  
10 of access to adequate internet services for schools, businesses, fami-  
11 lies, and healthcare facilities has had substantial negative economic  
12 and social impact particularly in rural and other underserved and  
13 unserved communities.

14 § 3. The public service law is amended by adding a new section 224-c  
15 to read as follows:

16 § 224-c. Broadband and fiber optic services. 1. For the purposes of  
17 this section:

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

LBD11628-05-0

1 (a) The term "served" means any location with at least two internet  
2 service providers and at least one such provider offers high-speed  
3 internet service.

4 (b) The term "underserved" means any location which has fewer than two  
5 internet service providers, or has internet speeds of at least 25 mega-  
6 bits per second (mbps) download but less than 100 mbps download avail-  
7 able.

8 (c) The term "unserved" means any location which has no fixed wireless  
9 service or wired service with speeds of 25 mbps download or less avail-  
10 able.

11 (d) The term "high-speed internet service" means internet service of  
12 at least 100 mbps download and at least 10 mbps upload.

13 (e) The term "broadband service" shall mean a mass-market retail  
14 service that provides the capability to transmit data to and receive  
15 data from all or substantially all internet endpoints, including any  
16 capabilities that are incidental to and enable the operation of the  
17 communications service, but shall not include dial-up service.

18 (f) The term "location" shall mean a geographic area smaller than a  
19 census tract.

20 2. The commission shall study the availability, affordability and  
21 reliability of high-speed internet and broadband services in New York  
22 state. The commission shall:

23 (a) assess the efficacy and make recommendations regarding levels of  
24 competition among providers, as well as any regulatory and statutory  
25 barriers, in order to deliver comprehensive statewide access to high-  
26 speed internet;

27 (b) review available technology to identify solutions that best  
28 support high-speed internet service in underserved or unserved areas,  
29 and make recommendations on ensuring deployment of such technology in  
30 underserved and unserved areas;

31 (c) identify instances where local franchise agreements and legal  
32 settlements related to internet access have not been complied with;

33 (d) identify locations where insufficient access to high-speed inter-  
34 net and/or broadband service, and/or persistent digital divide, is caus-  
35 ing negative social or economic impact on the community;

36 (e) identify locations where the commission believes fiber optic  
37 service is necessary for the successful implementation of commission's  
38 policies on competition, affordability, and adequate service;

39 (f) examine any other telecommunications deficiencies affecting broad-  
40 band service it deems necessary to further the economic and social goals  
41 of the state; and

42 (g) produce, maintain and publish on its website, a detailed internet  
43 access map of the state, indicating access to internet service by  
44 location. Such map shall include, but not be limited to, the following  
45 information for each location:

46 (i) download and upload speeds advertised and experienced;

47 (ii) the consistency and reliability of download and upload speeds  
48 including latency;

49 (iii) the types of internet service and technologies available includ-  
50 ing but not limited to dial-up, broadband, wireless, fiber, coax, or  
51 satellite;

52 (iv) the number of internet service providers available, the price of  
53 internet service available; and

54 (v) any other factors the commission may deem relevant.

55 3. The commission shall submit a report of its findings and recommen-  
56 dations from the study required in subdivision two of this section, to

1 the governor, the temporary president of the senate and the speaker of  
2 the assembly no later than one year after the effective date of this  
3 section, and an updated report annually thereafter. Such report shall  
4 include, but not be limited to, the following:

5 (a) the overall number of residences with access to high-speed inter-  
6 net identifying which areas are served, unserved and underserved;

7 (b) a regional survey of internet service prices in comparison to  
8 county-level median income;

9 (c) an analysis of the affordability of high-speed internet service in  
10 New York state;

11 (d) any relevant usage statistics;

12 (e) any other metrics or analyses the commission deems necessary in  
13 order to assess the availability, affordability and reliability of  
14 internet service in New York state; and

15 (f) the map maintained pursuant to paragraph (g) of subdivision two of  
16 this section.

17 4. The commission shall hold at least four regional public hearings  
18 within one year of the effective date of this section, to solicit input  
19 from the public and other stakeholders including but not limited to  
20 internet service providers, telecommunications concerns, labor organiza-  
21 tions, public safety organizations, healthcare, education, agricultural  
22 and other businesses or organizations.

23 5. The commission shall work with internet service providers in the  
24 state to prioritize access to broadband and fiber optic services for the  
25 communities determined to have experienced negative economic and social  
26 impacts due to absent, insufficient, or inadequate broadband or fiber  
27 optic service pursuant to subdivision one of this section.

28 6. To effectuate the purposes of this section, the commission may  
29 request and shall receive from any department, division, board, bureau,  
30 commission or other agency of the state or any state public authority  
31 such assistance, information and data as will enable the commission to  
32 carry out its powers and duties under this section.

33 § 4. The article heading of article 11 of the public service law, as  
34 added by chapter 83 of the laws of 1995, is amended to read as follows:

35 PROVISIONS RELATING TO CABLE TELEVISION COMPANIES

36 AND INTERNET SERVICE PROVIDERS

37 § 5. Section 212 of the public service law is amended by adding a new  
38 subdivision 15 to read as follows:

39 15. "Internet service provider" shall mean any person, business or  
40 organization qualified to do business in this state that provides indi-  
41 viduals, corporations, or other entities with the ability to connect to  
42 the internet.

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