SENATE BILL
No. 393 Session of 2019

INTRODUCED BY FARNESE, BREWSTER, TARTAGLIONE, COSTA, COLLETT, SCHWANK, BLAKE AND HUGHES, MARCH 13, 2019

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, MARCH 13, 2019

AN ACT

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in general provisions, further providing for definitions; and providing for Internet neutrality.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Paragraph (1) of the definition of "public utility" in section 102 of Title 66 of the Pennsylvania Consolidated Statutes is amended to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

* * *

"Public utility."

(1) Any person or corporations now or hereafter owning
or operating in this Commonwealth equipment or facilities for:

(i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.

(ii) Diverting, developing, pumping, impounding, distributing, or furnishing water to or for the public for compensation.

(iii) Transporting passengers or property as a common carrier.

(iv) Use as a canal, turnpike, tunnel, bridge, wharf, and the like for the public for compensation.

(v) Transporting or conveying natural or artificial gas, crude oil, gasoline, or petroleum products, materials for refrigeration, or oxygen or nitrogen, or other fluid substance, by pipeline or conduit, for the public for compensation.

(vi) Conveying or transmitting messages or communications, except as set forth in paragraph (2)(iv), by telephone or telegraph or domestic public land mobile radio service including, but not limited to, point-to-point microwave radio service for the public for compensation.

(vii) Wastewater collection, treatment, or disposal for the public for compensation.

(viii) Providing limousine service in a county of the second class pursuant to Subchapter B of Chapter 11 (relating to limousine service in counties of the second class).
(ix) Providing persons with the ability to connect to the Internet through equipment that is located in this Commonwealth.

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Section 2. Title 66 is amended by adding a chapter to read:

CHAPTER 30A
INTERNET NEUTRALITY

Sec.

30A01. Definitions.

30A02. Internet service providers.

30A03. Rules and regulations.

30A04. Violation of chapter.

30A05. Applicability.

§ 30A01. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Broadband Internet access service." A mass-market retail service by wire or radio 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. The term does not include dial-up Internet access service.

"Edge provider." A person that provides any content, application or service over the Internet and any device used for accessing any content, application or service over the Internet.

"Internet service provider." A person that provides broadband Internet access service in this Commonwealth.

"Paid prioritization." The management of an Internet service
provider's network to directly or indirectly favor some traffic over other traffic, including the use of techniques such as traffic shaping, prioritization, resource reservation or other forms of preferential traffic management in exchange for consideration, monetary or otherwise, from a third party or to benefit an affiliated person.

§ 30A02. Internet service providers.

An Internet service provider that provides broadband Internet access service may not engage in any of the following:

(1) Blocking lawful content, applications, services or nonharmful devices, subject to reasonable network management practices.

(2) Impairing or degrading lawful Internet traffic on the basis of Internet content, application or service, or use of a nonharmful device, subject to reasonable network management practices.

(3) Engaging in paid prioritization or providing preferential treatment of some Internet traffic to an Internet customer.

(4) Unreasonably interfering with or unreasonably disadvantaging either a customer's ability to select, access and use broadband Internet access service or lawful Internet content, applications, services or devices of the customer's choice, or an edge provider's ability to make lawful content, applications, services or devices available to a customer.

(5) Engaging in deceptive or misleading marketing practices that misrepresent the treatment of Internet traffic or content to its customers.

(6) Advertising, offering for sale or selling broadband Internet access service without prominently disclosing with
specificity all aspects of the service advertised, offered for sale or sold.

§ 30A03. Rules and regulations.

The Pennsylvania Public Utility Commission may promulgate rules and regulations necessary to administer and enforce this chapter.

§ 30A04. Violation of chapter.

(a) Unfair trade practice.--It shall be an unfair or deceptive act or practice and a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law, to violate any provision of this chapter.

(b) Commonwealth agency contracts.--A Commonwealth agency may not enter into a contract with an Internet service provider found to be in violation of this chapter.

(c) Definition.--As used in this section, the term "Commonwealth agency" shall have the meaning given to it in 62 Pa.C.S. § 103 (relating to definitions).

§ 30A05. Applicability.

This chapter shall apply to contracts entered into on or after the effective date of this section.

Section 3. This act shall take effect in 60 days.