OLR Bill Analysis
sSB 336 (File 518, as amended by Senate "A")*

AN ACT CONCERNING COMMUNITY SHARED SOLAR.

SUMMARY

This bill prohibits fixed and mobile broadband internet access providers from, among other things, (1) blocking lawful content, applications, services, and devices; (2) impairing or degrading lawful internet traffic based on its content, application, or service (i.e., throttling); and (3) engaging in paid prioritization.

It requires providers to publicly disclose accurate information on their network management practices, performance, and commercial terms sufficient, as determined by the Public Utilities Regulatory Authority (PURA), for end users to fully and accurately determine whether the service complies with the bill’s provisions.

The bill requires broadband internet access providers to register with PURA and, beginning January 1, 2019, pay a $5,000 fee annually by January 1.

Under the bill, PURA must receive and record end user complaints. The bill allows PURA, in its discretion, to review a fixed and mobile broadband internet access provider’s performance. If PURA finds the provider violated the bill’s prohibitions, it must hold a contested case hearing and make orders to enforce the bill’s provisions that may include civil penalties. Existing law generally limits such fines to no more than $10,000 per offense unless otherwise specified.

The bill specifies that its provisions do not:

1. supersede or limit a fixed and mobile broadband internet access provider’s obligation or authorization, consistent with or as permitted by applicable law, to address needs of emergency communications, law enforcement, or public safety or national
security authorities or

2. prohibit a provider’s reasonable efforts to address copyright infringement or other unlawful activity.

*Senate Amendment “A” replaces the underlying bill, which required the Department of Energy and Environmental Protection to establish a statewide shared clean energy program.

EFFECTIVE DATE: January 1, 2019

PROHIBITED ACTIVITIES

*Broadband Internet Access Service Providers*

The bill requires fixed and mobile broadband internet access service providers ("providers") to comply with net neutrality principles (i.e., prohibitions under the bill). Under the bill, a broadband internet access service is a mass-market retail service by wire or radio that allows data transmission to and from all or substantially all internet endpoints, including any capability incidental to and enabling the service’s operation. Broadband internet access service does not include dial-up internet access service. Fixed broadband internet access service serves end users primarily at fixed endpoints using stationary equipment, including fixed wireless services, fixed unlicensed wireless services, and fixed satellite services. Mobile broadband internet access service serves end users primarily using mobile stations (e.g., cell phones).

*Blocking*

The bill prohibits providers from blocking lawful content, applications, services, or nonharmful devices, as determined by PURA, subject to reasonable network management. Under the bill, reasonable network management is a network management practice that has a primarily technical network management justification, but does not include other business practices. Under the bill, a network management practice is reasonable if it is primarily used to achieve a legitimate network management purpose, as PURA determines, taking into account the particular network architecture and technology of the broadband internet access service.
**Throttling**

The bill prohibits providers from impairing or degrading lawful internet traffic based on its content, application, or service, or use of a nonharmful device, subject to reasonable network management.

**Paid Prioritization**

The bill prohibits providers from engaging in paid prioritization, which, under the bill, is managing a provider’s network to directly or indirectly favor some traffic over other traffic in exchange for monetary or other consideration from a third party or to benefit an affiliated entity. Paid prioritization techniques include:

1. traffic shaping,

2. prioritization,

3. resource reservation, and

4. other forms of preferential traffic management.

**End Users and Edge Providers**

The bill allows providers to engage in reasonable network management, but otherwise prohibits providers from interfering with or disadvantaging end users’ ability to select, access, and use broadband internet access service or lawful internet content, applications, or services, or their chosen device.

The bill also prohibits providers from interfering with or disadvantaging an edge provider’s ability to make lawful content, applications, services, or devices available to end users. Under the bill, an edge provider is any person or entity that provides (1) any content, application, or service over the internet or (2) a device used for accessing any content, application, or service over the internet.

**BACKGROUND**

*Federal Communications Commission (FCC) Order*

In December 2017, the FCC issued an order to largely reverse its 2015 order that classified broadband internet access as a
telecommunication service subject to Title II regulation. In so doing, the FCC generally reversed the net neutrality provisions in the 2015 order prohibiting throttling, blocking, and paid prioritization, among other things (FCC 17-166).

The new order also retains and modifies an earlier transparency rule, generally requiring internet service providers to publicly disclose accurate information regarding the network management practices, performance, and commercial terms of their broadband internet access services.

Related Bill

HB 5343 (File 191), favorably reported by the Energy and Technology Committee, requires PURA to impose a fine, order restitution, or both, rather than only a fine, for anyone who fails to obey or comply with laws, orders, or regulations, not to exceed current limits on fine amounts.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable
Yea 19  Nay 6  (03/29/2018)