

By Senator Jones

30-1594A-99

1 A bill to be entitled
2 An act relating to telecommunications
3 companies; amending s. 364.0251, F.S.;
4 providing for the commission to require local
5 exchange companies to provide competitive
6 provider information in bill inserts; creating
7 s. 364.151, F.S.; providing standards for the
8 interconnection of telecommunications
9 companies; providing for obligations of local
10 exchange companies; providing for negotiation
11 and arbitration of agreements; creating s.
12 364.152, F.S.; providing procedures for
13 negotiation, arbitration, and approval of
14 agreements among companies; requiring approval
15 by the commission; amending s. 364.16, F.S.;
16 deleting local interconnection requirements;
17 providing for access to local telephone
18 numbering resources; amending s. 364.161, F.S.;
19 revising requirements for unbundling and
20 resale; amending s. 364.162, F.S.; revising
21 requirements for interconnection and resale
22 pricing; amending s. 364.285, F.S.; increasing
23 administrative penalties; providing for damage
24 suits and alternative penalties; amending s.
25 364.30, F.S.; directing the commission to
26 resolve routing disputes; amending s. 364.3382,
27 F.S.; providing for monthly bill inserts of
28 pricing options; providing an effective date.

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30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Section 364.0251, Florida Statutes, is
2 amended to read:

3 364.0251 Competitive providers of local service;
4 implementation of consumer information program required.--By
5 January 1, 1996, the commission shall implement a consumer
6 information program to inform subscribers of the existence
7 ~~possibility under the law~~ of competitive providers of local
8 exchange telecommunications services, their rights as
9 customers of these alternative providers, the commission's
10 regulatory authority over the alternative providers, and any
11 other information the commission deems appropriate. The
12 commission shall ~~may~~, pursuant to this program, require all
13 companies providing local exchange telecommunications services
14 to provide such information in the form of a bill insert.

15 Section 2. Section 364.151, Florida Statutes, is
16 created to read:

17 364.151 Interconnection; negotiation and arbitration
18 of agreements.--

19 (1) GENERAL DUTY OF TELECOMMUNICATIONS CARRIERS.--Each
20 telecommunications company shall interconnect directly or
21 indirectly with the facilities and equipment of other
22 telecommunications companies and may not install network
23 features, functions, or capabilities that do not comply with
24 the guidelines and standards established under commission
25 rule.

26 (2) OBLIGATIONS OF ALL LOCAL EXCHANGE COMPANIES.--Each
27 local exchange company shall:

28 (a) Not prohibit and not impose unreasonable or
29 discriminatory conditions or limitations on the resale of its
30 telecommunications services.

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1 (b) Provide, to the extent technically feasible,
2 number portability in accordance with requirements prescribed
3 by the commission.

4 (c) Provide dialing parity to competing providers of
5 telephone exchange service and telephone toll service, and
6 permit all such providers to have nondiscriminatory access to
7 telephone numbers, operator services, directory assistance,
8 and directory listing, with no unreasonable dialing delays.

9 (d) Afford access to the poles, ducts, conduits, and
10 rights-of-way of the company to competing providers of
11 telecommunications services under nondiscriminatory rates,
12 terms, and conditions.

13 (e) Establish reciprocal compensation arrangements for
14 the transport and termination of telecommunications.

15 (3) ADDITIONAL OBLIGATIONS OF LOCAL EXCHANGE
16 TELECOMMUNICATIONS COMPANIES.--Each incumbent local exchange
17 telecommunications company shall:

18 (a) Negotiate in good faith the particular terms and
19 conditions of agreements to fulfill the duties described in
20 this section and s. 364.152. The requesting telecommunications
21 company also has the duty to negotiate in good faith the terms
22 and conditions of such agreements.

23 (b) Provide, for the facilities and equipment of any
24 requesting telecommunications company, interconnection with
25 the local exchange company's network:

26 1. For the transmission and routing of telephone,
27 exchange service, and exchange access;

28 2. At any technically feasible point within the
29 company's network;

30 3. That is at least equal in quality to that provided
31 by the local exchange company to itself or to any subsidiary,

1 affiliate, or any other party to which the company provides
2 interconnection; and

3 4. On rates, terms, and conditions that are just,
4 reasonable, and nondiscriminatory, in accordance with the
5 terms and conditions of the agreement and the requirements of
6 this section and s. 364.152.

7 (c) Provide, to any requesting telecommunications
8 carrier for the provision of a telecommunications service,
9 nondiscriminatory access to network elements on an unbundled
10 basis at any technically feasible point on rates, terms, and
11 conditions that are just, reasonable, and nondiscriminatory in
12 accordance with the terms and conditions of the agreement and
13 the requirements of this section and s. 364.152. An incumbent
14 local exchange telecommunications company shall provide
15 unbundled network elements in a manner that allows requesting
16 companies to combine the elements in order to provide the
17 telecommunications service. An incumbent local exchange
18 carrier shall provide to any requesting telecommunications
19 carrier the combination of network elements requested. The
20 request must be honored whether it is a different service or
21 whether it duplicates a service currently provided by the
22 incumbent local exchange carrier.

23 (d) Offer for resale at wholesale rates any
24 telecommunications service that the company provides at retail
25 to subscribers who are not telecommunications companies, but
26 may not prohibit, nor impose unreasonable or discriminatory
27 conditions or limitations on the resale of the
28 telecommunications service, except that the commission may,
29 consistent with rules adopted by the commission under this
30 section, prohibit a reseller that obtains at wholesale rates a
31 telecommunications service that is available at retail only to

1 a category of subscribers from offering the service to a
2 different category of subscribers.

3 (e) Provide reasonable public notice of changes in the
4 information necessary for the transmission and routing of
5 services using that local exchange company's facilities or
6 networks, as well as of any other changes that would affect
7 the interoperability of those facilities and networks.

8 (f) Provide, on rates, terms, and conditions that are
9 just, reasonable, and nondiscriminatory, for physical
10 collocation of switching and other equipment necessary for the
11 provision of telecommunication services at the premises of the
12 local exchange carrier, except that the carrier may provide
13 for virtual collocation if the local exchange carrier
14 demonstrates to the commission that physical collocation is
15 not practical for technical reasons or because of space
16 limitations.

17 (g) Provide to any requesting telecommunications
18 carrier access and use in a nondiscriminatory manner, and
19 identical to that which the incumbent local exchange carrier
20 uses, the following five functions of operational support
21 systems: preordering, ordering, provisioning, billing, and
22 maintenance and repair. The incumbent local exchange carrier
23 shall provide access and use to the databases associated with
24 each of the identified functions.

25
26 An incumbent local exchange carrier is prohibited from selling
27 an unbundled loop to any requesting telecommunications carrier
28 at cost or at a rate greater than the retail price provided
29 for the least expensive basic telephone service.

30 (4) IMPLEMENTATION.--The commission shall complete all
31 actions necessary to establish rules to implement the

1 requirements of this section. In determining what network
2 elements should be made available, the commission shall
3 consider, at a minimum, whether access to the network elements
4 that are proprietary in nature is necessary and whether the
5 failure to provide access to those network elements would
6 impair the ability of the telecommunications carrier seeking
7 access to provide the services that it seeks to offer.

8 (5) NUMBERING ADMINISTRATION.--The commission shall
9 create or designate one or more impartial entities to
10 administer telecommunications numbering and to make the
11 numbers available on an equitable basis. The cost of
12 establishing telecommunications numbering administration
13 arrangements and number portability shall be borne by all
14 telecommunications carriers on a competitively neutral basis
15 as determined by the commission.

16 (6) EXEMPTIONS, SUSPENSIONS, AND MODIFICATIONS.--

17 (a)1. Subsection (3) does not apply to a rural
18 telephone company until the company has received a bona fide
19 request for interconnection, services, or network elements and
20 the commission determines that the request is not unduly
21 economically burdensome, is technically feasible, and is
22 consistent with this chapter.

23 2. The party making a bona fide request of a rural
24 telephone company for interconnection, services, or network
25 elements shall submit a notice of its request to the
26 commission. The commission shall conduct an inquiry for the
27 purpose of determining whether to terminate the exemption
28 under subparagraph 1. Within 120 days after the state
29 commission receives notice of the request, the commission
30 shall terminate the exemption if the request is not unduly
31 economically burdensome, is technically feasible, and is

1 consistent with this chapter. Upon termination of the
2 exemption, the commission shall establish an implementation
3 schedule for compliance with the request that is consistent in
4 time and manner with commission rules.

5 3. The exemption provided by this paragraph does not
6 apply with respect to a request under subsection (3) from a
7 cable operator providing video programming, and seeking to
8 provide any telecommunications service, in the area in which
9 the rural telephone company provides video programming. The
10 limitation contained in this subparagraph does not apply to a
11 rural telephone company that is providing video programming on
12 October 1, 1999.

13 (b) A local exchange carrier with fewer than 2 percent
14 of the state's subscriber lines may petition the commission
15 for a suspension or modification of the application of a
16 requirement or requirements of subsection (2) or (3) to
17 telephone exchange service facilities specified in the
18 petition. The commission shall grant the petition to the
19 extent that, and for such duration as, the commission
20 determines that the suspension or modification:

21 1. Is necessary to avoid:

22 a. A significant adverse economic impact on users of
23 telecommunications services generally;

24 b. Imposing a requirement that is unduly economically
25 burdensome; or

26 c. Imposing a requirement that is technically
27 infeasible; and

28 2. Is consistent with the public interest,
29 convenience, and necessity.

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1 The commission shall act upon any petition filed under this
2 paragraph within 180 days after receiving the petition.
3 Pending action, the commission may suspend enforcement of the
4 requirement or requirements to which the petition applies with
5 respect to the petitioning carrier or carriers.

6 (7) CONTINUED ENFORCEMENT OF EXCHANGE ACCESS AND
7 INTERCONNECTION REQUIREMENTS.--On and after October 1, 1999,
8 each local exchange carrier, to the extent that it provides
9 wireline services, shall provide exchange access, information
10 access, and exchange services for access to interexchange
11 carriers and information service providers in accordance with
12 the same equal access and nondiscriminatory interconnection
13 restrictions and obligations, including receipt of
14 compensation, that apply to the carrier on the date
15 immediately preceding October 1, 1999, under any court order,
16 consent decree, or regulation, order, or policy of the
17 commission, until the restrictions and obligations are
18 explicitly superseded by rules adopted by the commission after
19 October 1, 1999. During the period beginning October 1, 1999,
20 and until such restrictions and obligations are so superseded,
21 the restrictions and obligations are enforceable in the same
22 manner as rules of the commission.

23 Section 3. Section 364.152, Florida Statutes, is
24 created to read:

25 364.152 Procedure for negotiation, arbitration, and
26 approval of agreements.--

27 (1) AGREEMENTS ARRIVED AT THROUGH NEGOTIATION.--

28 (a) Upon receiving a request for interconnection,
29 services, or network elements under s. 364.151, an incumbent
30 local exchange telecommunications company may negotiate and
31 enter into a binding agreement with the requesting

1 telecommunications carrier or carriers without regard to the
2 standards set forth in s. 364.151(2) and (3). The agreement
3 must include a detailed schedule of itemized charges for
4 interconnection and each service or network element included
5 in the agreement.

6 (b) Any party negotiating an agreement under this
7 section may at any point in the negotiation ask the commission
8 to participate in the negotiation and to mediate any
9 differences arising in the course of the negotiation.

10 (2) AGREEMENTS ARRIVED AT THROUGH COMPULSORY
11 ARBITRATION.--

12 (a) During the period from the 135th to the 160th day
13 (inclusive) after the date on which an incumbent local
14 exchange carrier receives a request for negotiation under this
15 section, the carrier or any other party to the negotiation may
16 petition the commission to arbitrate any open issues.

17 (b)1. A party that petitions the commission under
18 paragraph (a) shall, at the same time as it submits the
19 petition, provide the commission all relevant documentation
20 concerning the unresolved issues, the position of each of the
21 parties with respect to those issues, and any other issue
22 discussed and resolved by the parties.

23 2. A party that petitions the commission under
24 paragraph (a) shall provide a copy of the petition and any
25 documentation to the other party or parties not later than the
26 day on which the commission receives the petition.

27 (c) A nonpetitioning party to a negotiation under this
28 section may respond to the other party's petition and provide
29 additional information as it wishes within 25 days after the
30 commission receives the petition.

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1 (d) The commission shall limit its consideration of
2 any petition under paragraph (a) and any response thereto to
3 the issues set forth in the petition and in the response, if
4 any, filed under paragraph (c). The commission may require the
5 petitioning party and the responding party to provide
6 information as may be necessary for the commission to reach a
7 decision on the unresolved issues. If any party refuses or
8 fails unreasonably to respond on a timely basis to any
9 reasonable request from the commission, then the commission
10 may proceed on the basis of the best information available to
11 it from whatever source derived. The commission shall resolve
12 each issue set forth in the petition and the response, if any,
13 by imposing appropriate conditions as required to implement
14 subsection (3) upon the parties to the agreement, and shall
15 conclude the resolution of any unresolved issues not later
16 than 9 months after the date on which the local exchange
17 telecommunications company received the request under this
18 section.

19 (e) The refusal of any other party to the negotiation
20 to participate further in the negotiations, to cooperate with
21 the commission in carrying out its function as an arbitrator,
22 or to continue to negotiate in good faith in the presence, or
23 with the assistance, of the commission is considered a failure
24 to negotiate in good faith.

25 (3) STANDARDS FOR ARBITRATION.--In resolving by
26 arbitration under subsection (2) any open issues and imposing
27 conditions upon the parties to the agreement, the commission
28 shall:

29 (a) Ensure that the resolution and conditions meet the
30 requirements of s. 364.151, including the rules prescribed by
31 the commission under that section;

1 (b) Establish any rates for interconnection, services,
2 or network elements according to subsection (4); and

3 (c) Provide a schedule for implementation of the terms
4 and conditions by the parties to the agreement.

5 (4) PRICING STANDARDS.--

6 (a) Determinations by the commission of the just and
7 reasonable rate for the interconnection of facilities and
8 equipment for purposes of s. 364.151(3)(b), and the just and
9 reasonable rate for network elements for purposes of s.
10 364.151(3)(c) shall be based on the cost, determined without
11 reference to a rate-of-return or other rate-based proceeding,
12 of providing the interconnection or network element, whichever
13 is applicable, and nondiscriminatory, and may include a
14 reasonable profit.

15 (b) For the purposes of compliance by an incumbent
16 local exchange carrier with s. 364.151(2)(e), the commission
17 shall not consider the terms and conditions for reciprocal
18 compensation to be just and reasonable unless the terms and
19 conditions provide for the mutual and reciprocal recovery by
20 each company of costs associated with the transport and
21 termination on each company's network facilities of calls that
22 originate on the network facilities of the other company and
23 the terms and conditions determine those costs on the basis of
24 a reasonable approximation of the additional costs of
25 terminating the calls.

26 (c) This subsection may not be construed to preclude
27 arrangements that afford the mutual recovery of costs through
28 the offsetting of reciprocal obligations, including
29 arrangements that waive mutual recovery, such as bill-and-keep
30 arrangements, or to authorize the commission to engage in any
31 rate regulation proceeding to establish with particularity the

1 additional costs of transporting or terminating calls, or to
2 require carriers to maintain records with respect to the
3 additional costs of the calls.

4 (d) For the purposes of s. 364.151(3)(d), the
5 commission shall determine wholesale rates on the basis of
6 retail rates charged to subscribers for the telecommunications
7 service requested, excluding the portion thereof attributable
8 to any marketing, billing, collection, and other costs that
9 will be avoided by the local exchange carrier.

10 (5) APPROVAL BY THE COMMISSION.--

11 (a) Any interconnection agreement adopted by
12 negotiation or arbitration shall be submitted for approval to
13 the commission. The commission shall approve or reject the
14 agreement with written findings as to any deficiencies.

15 (b) The commission may only reject:

16 1. An agreement, or any portion thereof, adopted by
17 negotiation under subsection (1) if it finds that:

18 a. The agreement, or portion thereof, discriminates
19 against a telecommunications carrier not a party to the
20 agreement; or

21 b. The implementation of such agreement or portion is
22 not consistent with the public interest, convenience, and
23 necessity; or

24 2. An agreement, or any portion thereof, adopted by
25 arbitration under subsection (2) if it finds that the
26 agreement does not meet the requirements of s. 364.151
27 including the rules adopted by the commission under s. 364.151
28 and this section or the standards set forth in subsection (4).

29 (c) This section does not prohibit the commission from
30 establishing or enforcing other requirements of law in its
31 review of an agreement, including requiring compliance with

1 intrastate telecommunications service quality standards or
2 requirements.

3 (d) If the commission does not act to approve or
4 reject the agreement within 90 days after submission by the
5 parties of an agreement adopted by negotiation under
6 subsection (1), or within 30 days after submission by the
7 parties of an agreement adopted by arbitration under
8 subsection (2), the agreement is approved. The circuit court
9 has jurisdiction to review the action of the commission in
10 approving or rejecting an agreement under this section.

11 (6) FILING REQUIRED.--The commission shall make a copy
12 of each agreement available for public inspection and copying
13 within 10 days after the agreement or statement is approved.
14 The commission may charge a reasonable and nondiscriminatory
15 fee to the parties to the agreement or to the party filing the
16 statement to cover the costs of approving and filing the
17 agreement or statement.

18 (7) AVAILABILITY TO OTHER TELECOMMUNICATIONS
19 CARRIERS.--A local exchange carrier shall make available any
20 interconnection, service, or network element provided under an
21 agreement approved under this section to which it is a party
22 to any other requesting telecommunications carrier upon the
23 same terms and conditions as those provided in the agreement.

24 Section 4. Section 364.16, Florida Statutes, is
25 amended to read:

26 364.16 Connection of lines and transfers; ~~local~~
27 ~~interconnection~~; telephone number portability.--

28 (1) Whenever the commission finds that connections
29 between any two or more local exchange telecommunications
30 companies, whose lines form a continuous line of communication
31 or could be made to do so by the construction and maintenance

1 of suitable connections at common points, can reasonably be
2 made and efficient service obtained, and that such connections
3 are necessary, the commission may require such connections to
4 be made, may require that telecommunications services be
5 transferred, and may prescribe through lines and joint rates
6 and charges to be made, used, observed, and in force in the
7 future and fix the rates and charges by order to be served
8 upon the company or companies affected.

9 ~~(2) Each alternative local exchange telecommunications~~
10 ~~company shall provide access to, and interconnection with, its~~
11 ~~telecommunications services to any other provider of local~~
12 ~~exchange telecommunications services requesting such access~~
13 ~~and interconnection at nondiscriminatory prices, terms, and~~
14 ~~conditions. If the parties are unable to negotiate mutually~~
15 ~~acceptable prices, terms, and conditions after 60 days, either~~
16 ~~party may petition the commission and the commission shall~~
17 ~~have 120 days to make a determination after proceeding as~~
18 ~~required by s. 364.162(6) pertaining to interconnection~~
19 ~~services.~~

20 ~~(3) Each local exchange telecommunications company~~
21 ~~shall provide access to, and interconnection with, its~~
22 ~~telecommunications facilities to any other provider of local~~
23 ~~exchange telecommunications services requesting such access~~
24 ~~and interconnection at nondiscriminatory prices, rates, terms,~~
25 ~~and conditions established by the procedures set forth in s.~~
26 ~~364.162.~~

27 (2)(a) No local exchange telecommunications company or
28 alternative local exchange telecommunications company shall
29 knowingly deliver traffic, for which terminating access
30 service charges would otherwise apply, through a local
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1 interconnection arrangement without paying the appropriate
2 charges for such terminating access service.

3 (b) Any party with a substantial interest may petition
4 the commission for an investigation of any suspected violation
5 of paragraph (a). In the event any certificated local exchange
6 service provider knowingly violates paragraph (a), the
7 commission shall have jurisdiction to arbitrate bona fide
8 complaints arising from the requirements of this subsection
9 and shall, upon such complaint, have access to all relevant
10 customer records and accounts of any telecommunications
11 company.

12 ~~(3)(4)~~ In order to assure that consumers have access
13 to different local exchange service providers without being
14 disadvantaged, deterred, or inconvenienced by having to give
15 up the consumer's existing local telephone number, all
16 providers of local exchange services must have access to local
17 telephone numbering resources and assignments on identical
18 ~~equitable~~ terms that include a recognition of the scarcity of
19 such resources and are in accordance with national assignment
20 guidelines. Each local exchange provider, except small local
21 exchange telecommunications companies under rate of return
22 regulation, shall provide a temporary means of achieving
23 telephone number portability. The parties, under the direction
24 of the commission, shall set up a number portability standards
25 group by no later than September 1, 1995, for the purposes of
26 investigation and development of appropriate parameters,
27 costs, and standards for number portability. If the parties
28 are unable to successfully negotiate the prices, terms, and
29 conditions of a temporary number portability solution, the
30 commission shall establish a temporary number portability
31 solution by no later than January 1, 1996. Each local

1 exchange service provider shall make necessary modifications
2 to allow permanent portability of local telephone numbers
3 between certificated providers of local exchange service as
4 soon as reasonably possible after the development of national
5 standards. The parties shall negotiate the prices, terms, and
6 conditions for permanent telephone number portability
7 arrangements. In the event the parties are unable to
8 satisfactorily negotiate the prices, terms, and conditions,
9 either party may petition the commission and the commission
10 shall, after opportunity for a hearing, set the rates, terms,
11 and conditions. The prices and rates shall not be below cost.
12 Number portability between different certificated providers of
13 local exchange service at the same location shall be provided
14 temporarily no later than January 1, 1996.

15 ~~(5) When requested, each certificated~~
16 ~~telecommunications company shall provide access to any poles,~~
17 ~~conduits, rights-of-way, and like facilities that it owns or~~
18 ~~controls to any local exchange telecommunications company or~~
19 ~~alternative local exchange telecommunications company pursuant~~
20 ~~to reasonable rates and conditions mutually agreed to which do~~
21 ~~not discriminate between similarly situated companies.~~

22 Section 5. Section 364.161, Florida Statutes, 1998
23 Supplement, is amended to read:

24 364.161 Unbundling and resale.--

25 ~~(1) Upon request, each local exchange~~
26 ~~telecommunications company shall unbundle all of its network~~
27 ~~features, functions, and capabilities, including access to~~
28 ~~signaling databases, systems and routing processes, and offer~~
29 ~~them to any other telecommunications provider requesting such~~
30 ~~features, functions or capabilities for resale to the extent~~
31 ~~technically and economically feasible. The parties shall~~

1 ~~negotiate the terms, conditions, and prices of any feasible~~
2 ~~unbundling request. If the parties cannot reach a~~
3 ~~satisfactory resolution within 60 days, either party may~~
4 ~~petition the commission to arbitrate the dispute and the~~
5 ~~commission shall make a determination within 120 days. In no~~
6 ~~event, however, shall the local exchange telecommunications~~
7 ~~company be required to offer such unbundled services, network~~
8 ~~features, functions or capabilities, or unbundled local loops~~
9 ~~at prices that are below cost. The prices, rates, terms, and~~
10 ~~conditions for the unbundled services shall be established by~~
11 ~~the procedure set forth in s. 364.162 and shall be equally~~
12 ~~applicable to both the local exchange telecommunications~~
13 ~~company and its affiliates in the provision of their own~~
14 ~~service, until such time as the local exchange~~
15 ~~telecommunications company petitions the commission and the~~
16 ~~commission determines otherwise, but in no event prior to July~~
17 ~~1, 1999.~~

18 (1)~~(2)~~ Other than ensuring that the resale is of the
19 same class of service, no local exchange telecommunications
20 company may impose any restrictions on the resale of its
21 services or facilities except those the commission may
22 determine are reasonable. ~~The local exchange~~
23 ~~telecommunications company's currently tariffed, flat-rated,~~
24 ~~switched residential and business services shall not be~~
25 ~~required to be resold until the local exchange~~
26 ~~telecommunications company is permitted to provide inter-LATA~~
27 ~~services and video programming, but in no event before July 1,~~
28 ~~1997. In no event shall the price of any service provided for~~
29 ~~resale be below cost.~~

30 (2)~~(3)~~ Only after an alternative local exchange
31 telecommunications company has been determined to be a carrier

1 of last resort shall such company, upon request by another
2 telecommunications provider, be required, for purposes of
3 resale, to unbundle its local exchange services, network
4 features, functions and capabilities, including its local
5 loop, to the extent such unbundling is technically and
6 economically feasible. The parties shall negotiate the terms,
7 conditions, and prices of any feasible unbundling request. If
8 the parties cannot reach a satisfactory resolution within 60
9 days, either party may petition the commission to arbitrate
10 the dispute ~~and the commission shall make a determination~~
11 ~~within 120 days~~. The prices shall not be below cost.

12 (3)(4) A local exchange telecommunications company
13 shall provide unbundled network elements, services for resale,
14 requested repairs, and necessary support services immediately
15 ~~in a timely manner~~. The Public Service Commission shall
16 maintain a file of all complaints by alternative local
17 exchange telecommunications companies against local exchange
18 telecommunications companies regarding timeliness and adequacy
19 of service. This information, including how and when each
20 complaint was resolved, shall be included with the
21 commission's annual report to the Legislature on competition.

22 Section 6. Section 364.162, Florida Statutes, is
23 amended to read:

24 364.162 Negotiated prices for interconnection and for
25 the resale of services and facilities; commission rate
26 setting.--

27 ~~(1) Any party who, on July 1, 1995, has an application~~
28 ~~on file with the commission to become an alternative local~~
29 ~~exchange telecommunications company shall have until August~~
30 ~~31, 1995, to negotiate with a local exchange~~
31 ~~telecommunications company mutually acceptable prices, terms,~~

1 ~~and conditions of interconnection and for the resale of~~
2 ~~services and facilities.~~

3 ~~(2) If a negotiated price is not established by August~~
4 ~~31, 1995, either party may petition the commission to~~
5 ~~establish nondiscriminatory rates, terms, and conditions of~~
6 ~~interconnection and for the resale of services and facilities.~~

7 (1) Whether set by negotiation or by the commission,
8 interconnection and resale prices, rates, terms, and
9 conditions shall be filed with the commission before their
10 effective date. The commission shall have the authority to
11 arbitrate any dispute regarding interpretation of
12 interconnection or resale prices and terms and conditions.

13 ~~(3) In the event that the commission receives a single~~
14 ~~petition relating to either interconnection or resale of~~
15 ~~services and facilities, it shall vote, within 120 days~~
16 ~~following such filing, to set nondiscriminatory rates, terms,~~
17 ~~and conditions, except that the rates shall not be below cost.~~
18 ~~If the commission receives one or more petitions relating to~~
19 ~~both interconnection and resale of services and facilities,~~
20 ~~the commission shall conduct separate proceedings for each~~
21 ~~and, within 120 days following such filing, make two separate~~
22 ~~determinations setting such nondiscriminatory rates, terms,~~
23 ~~and conditions, except that the rates shall not be below cost.~~

24 (2)~~(4)~~ In setting the local interconnection charge,
25 the commission shall determine that the charge is sufficient
26 to cover the cost of furnishing interconnection.

27 ~~(5) The commission shall ensure that, if the rate it~~
28 ~~sets for a service or facility to be resold provides a~~
29 ~~discount below the tariff rate for such service or facility~~
30 ~~which appropriately reflects the local exchange~~
31 ~~telecommunications company's avoidance of the expense and cost~~

1 ~~of marketing such service or facility to retail customers,~~
2 ~~such rate must not be below cost. The commission shall also~~
3 ~~assure that this rate is not set so high that it would serve~~
4 ~~as a barrier to competition.~~

5 ~~(6) An alternative local exchange telecommunications~~
6 ~~company that did not have an application for certification on~~
7 ~~file with the commission on July 1, 1995, shall have 60 days~~
8 ~~from the date it is certificated to negotiate with a local~~
9 ~~exchange telecommunications company mutually acceptable~~
10 ~~prices, terms, and conditions of interconnection and for the~~
11 ~~resale of services and facilities. If a negotiated price is~~
12 ~~not established after 60 days, either party may petition the~~
13 ~~commission to establish nondiscriminatory rates, terms, and~~
14 ~~conditions of interconnection and for the resale of services~~
15 ~~and facilities. The commission shall have 120 days to make a~~
16 ~~determination after proceeding as required by subsection (3).~~

17 ~~(7) Prior to July 1, 1999, the parties may negotiate a~~
18 ~~new local interconnection charge to be effective not earlier~~
19 ~~than July 1, 1999. If the parties cannot satisfactorily~~
20 ~~negotiate a new local interconnection charge, either party may~~
21 ~~petition the commission to resolve the matter. In the event~~
22 ~~any party, prior to July 1, 1999, believes that circumstances~~
23 ~~have changed substantially to warrant a different price for~~
24 ~~local interconnection, that party may petition the commission~~
25 ~~for a price change, but the commission shall grant such~~
26 ~~petition only after an opportunity for a hearing and a~~
27 ~~compelling showing of changed circumstances, including that~~
28 ~~the provider's customer population includes as many~~
29 ~~residential as business customers. The commission shall act~~
30 ~~on any such petition within 120 days.~~

31

1 Section 7. Subsection (1) of section 364.285, Florida
2 Statutes, is amended, and subsection (3) is added to that
3 section, to read:

4 364.285 Penalties.--

5 (1) The commission shall have the power to impose upon
6 any entity subject to its jurisdiction under this chapter
7 which is found to have refused to comply with or to have
8 willfully violated any lawful rule or order of the commission
9 or any provision of this chapter a penalty for each offense of
10 not more than ~~\$100,000~~\$25,000, which penalty shall be fixed,
11 imposed, and collected by the commission; or the commission
12 may, for any such violation, amend, suspend, or revoke any
13 certificate issued by it. Each day that such refusal or
14 violation continues constitutes a separate offense. Each
15 penalty shall be a lien upon the real and personal property of
16 the entity, enforceable by the commission as a statutory lien
17 under chapter 85. Collected penalties shall be deposited in
18 the General Revenue Fund unallocated.

19 (3) Nothing in this chapter prohibits, exempts, or
20 otherwise precludes, any entity from bringing an action for
21 damages against any other entity, whether arising under state
22 or federal law. Any entity may file suit in the circuit court
23 against any other entity for damages arising from a violation
24 of this chapter; and, in any such suit, deference must be
25 given to decisions of the Federal Communications Commission,
26 the commission, and the federal courts in interpreting those
27 obligations imposed by this chapter. Any suit for damages
28 under this section may be combined with an enforcement
29 proceeding brought by a nongovernmental person under s.
30 120.69. When any entity has willfully refused to comply with
31 any lawful rule or order of the commission, a nongovernmental

1 entity bringing suit under s. 120.69 may also seek, and the
2 circuit court may impose, those penalties set forth in
3 subsection (1) for every day of noncompliance. Fifty-percent
4 of the amount of the penalties collected by the
5 nongovernmental entity shall be provided to the General
6 Revenue Fund unallocated, and the remainder may be retained by
7 the entity seeking enforcement as additional compensation. In
8 any suit to enforce compliance under s. 120.69, the court
9 shall award the enforcing party costs and reasonable
10 attorney's fees associated with any compliance ordered by the
11 court.

12 Section 8. Subsection (1) of section 364.30, Florida
13 Statutes, is amended to read:

14 364.30 Telecommunications companies; points of
15 connection.--

16 (1) Any telecommunications company operating within
17 the state subject to the provisions of this chapter, having
18 more than one point of connection with or through any other
19 telecommunications company, is hereby authorized and permitted
20 to use and enjoy any of its points of connection on any call
21 at any time such points of connection are not in use, and the
22 company with which the call is initiated shall be the sole
23 judge in each instance as to whether the convenience and
24 necessity of its own subscribers, the facility with which the
25 connection and call may be completed, and its financial
26 welfare are best served by the routing selected by the company
27 receiving any such individual call. A local exchange
28 telecommunications company shall give consideration to an
29 alternative local exchange company's request for routing, and
30 any dispute shall be resolved by the commission.~~Any~~
31 ~~telecommunications company having two or more points of~~

1 ~~connection with any other company may not be required by the~~
2 ~~connecting company to route all or any specific number of its~~
3 ~~calls through any one connection at the will of the connecting~~
4 ~~company.~~

5 Section 9. Subsection (1) of section 364.3382, Florida
6 Statutes, is amended to read:

7 364.3382 Disclosure.--

8 (1) A local exchange telecommunications company, when
9 a residential customer initially requests service, shall
10 advise each residential customer of the least-cost service
11 available to that customer. Monthly ~~Annually~~, in the form of
12 a bill insert, the local exchange telecommunications company
13 shall advise each residential customer of the price of each
14 service option selected by that customer and also the prices
15 for those or similar services provided by any alternative
16 local exchange telecommunications companies serving that same
17 area. The requirement of ~~an annual~~ notice through a bill
18 insert does not apply to interexchange service.

19 Section 10. This act shall take effect October 1,
20 1999.

21
22 *****

23 SENATE SUMMARY

24 Provides for the regulation of local exchange
25 telecommunications companies. Creates new standards for
26 interconnections and procedures for negotiation,
27 arbitration, and approval of agreements among companies.