

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1070

SPONSOR: Regulated Industries Committee and Senator Campbell

SUBJECT: Florida Public Service Commission

DATE: March 11, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaccaro	Caldwell	RI	Favorable/CS
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for Senate Bill 1070 grants the Florida Public Service Commission (PSC) regulatory oversight of intrastate, digital subscriber line service provided by incumbent local exchange telecommunications companies (ILECs) for purposes of ensuring resolution of service complaints. The committee substitute defines the terms “digital subscriber line service,” “xDSL service,” and “advanced telecommunications capability,” and requires that ILECs file tariffs for intrastate, digital subscriber line service as part of their nonbasic services. The committee substitute requires that the PSC determine whether deployment of digital subscriber line service is occurring in a reasonable and timely manner and if technological barriers exist that hinder such deployment. The committee substitute also requires the PSC to report its findings to the Legislature by January 1, 2003, and to make recommendations for accelerating deployment.

This committee substitute substantially amends sections 364.02 and 364.051 of the Florida Statutes.

This committee substitute creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Digital subscriber line service or xDSL service is a type of telecommunication service that provides advanced telecommunications capability. Section 706(c)(1) of the Federal Telecommunications Act of 1996 (Telecommunications Act), defines the term “advanced telecommunications capability” as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, and video telecommunications using any technology. In Florida, those technologies include wireline services such as xDSL, cable modem, fixed wireless communications, and wireless satellite.

Section 706(a) of the Telecommunications Act directs the Federal Communications Commission (FCC) and state commissions to encourage deployment of advanced services on a reasonable and timely basis to all Americans.

Section 364.01, F.S. grants the Florida Public Service Commission (PSC) exclusive jurisdiction over all matters set forth in ch. 364, F.S., relating to the regulation of telecommunications companies. Pursuant to the Telecommunications Act, the jurisdiction of state commissions is limited to intrastate service. The Federal Communications Commission (FCC) has jurisdiction over interstate service.

Chapter 364, F.S., does not specifically address to what extent, if any, the PSC has jurisdiction over xDSL service. On January 25, 2001, PSC staff filed a recommendation requesting that the PSC order BellSouth Telecommunications, Inc., Verizon Florida, Inc., and Sprint – Florida, Incorporated to file intrastate xDSL tariffs. According to PSC staff, there could be times when xDSL traffic would fall within the category of local traffic, and therefore qualify for tariffing at the state level. PSC staff also noted receipt of numerous complaints against incumbent local exchange carriers who provide internet service. Therefore, PSC staff recommended that xDSL service be tariffed at the state and federal level.

In making its recommendation, PSC staff relied upon FCC Order No. 98-292, issued on October 30, 1998, in CC Docket No. 98-97, by which the FCC approved an ADSL tariff filed by GTE.¹ In approving the tariff, the FCC ruled that GTE's service was interstate in nature and that GTE had correctly filed at the federal level. The FCC noted, however, that should GTE or any other incumbent local exchange company offer xDSL service that was intrastate in nature, the service should be tariffed at the state level.

The PSC declined to rule on the staff recommendation and requested additional information from staff to support the PSC's jurisdiction. The PSC has yet to revisit this matter. Therefore, PSC authority over xDSL remains unclear.

Section 364.051(5)(a), F.S., requires that ILECs maintain tariffs with the PSC containing the terms, conditions, and rates for each of its nonbasic services. Examples of nonbasic service include custom calling, Integrated Services Digital Network², remote call forwarding and call screening. Section 364.051(5)(b), F.S., provides the PSC continuing regulatory oversight of nonbasic services for purposes of ensuring resolution of service complaints, preventing cross-subsidization of nonbasic services with revenues from basic services, and ensuring that all providers in the telecommunications market are treated fairly.

III. Effect of Proposed Changes:

Section 1 amends s. 364.02, F.S., to define the terms “digital subscriber line service,” “xDSL service,” and “advanced telecommunications capability.” The terms “digital subscriber line service” or “xDSL service” mean a type of telecommunication service that provides advanced

¹ Asymmetrical DSL is an asymmetric transmission form of xDSL that commits a large part of its bandwidth to the downstream direction toward the end user.

² ISDN is a telecommunications network architecture using digital transmission for integrated voice, data, video, and image services over standard twisted-pair telephone wire.

telecommunications capability. The term “advanced telecommunications capability,” means high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, and video telecommunications.

Section 2 amends subsection (5) of s. 364.051, F.S., to grant the PSC regulatory oversight of intrastate, digital subscriber line service provided by ILECs. The committee substitute requires that ILECs file tariffs for intrastate, digital subscriber line service as part of their nonbasic services.

Section 3 creates an unnumbered section, which requires the PSC to determine whether deployment of digital subscriber line service is occurring in a reasonable and timely manner and if technological barriers exist that hinder such deployment. The PSC is required to report its findings to the Legislature by January 1, 2003, and to make recommendations for accelerating deployment.

Section 4 provides that the act takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The committee substitute provides consumer protection for service complaints related to intrastate, digital subscriber line service provided by ILECs. The committee substitute requires the PSC to make recommendations to encourage future deployment of digital subscriber line service in Florida.

C. Government Sector Impact:

The committee substitute grants the PSC regulatory oversight of intrastate, digital subscriber line service provided by ILECs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
