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1                                   A bill to be entitled  
2           An act relating to regulation of telecommunications  
3           companies; providing a popular name; amending s. 364.01,  
4           F.S.; providing legislative finding that provision of  
5           unregulated voice-over-internet protocol is in the public  
6           interest; amending s. 364.02, F.S.; changing the term  
7           "alternative local exchange telecommunications company" to  
8           "competitive local exchange telecommunications company";  
9           defining the term "intrastate interexchange  
10          telecommunications company"; limiting the definition of  
11          "service"; amending s. 364.025, F.S.; conforming  
12          terminology; extending the time period for mandatory  
13          provision of basic local exchange telecommunications  
14          services within the territory of a local exchange  
15          telecommunications company; extending the transitional  
16          time period for the Public Service Commission's providing  
17          an interim mechanism for maintaining universal service  
18          objectives; providing authority for the Public Service  
19          Commission to change the mechanism upon petition during  
20          such period; delaying requirement that the Legislature  
21          establish a permanent mechanism; delaying date on which  
22          competitive local exchange telecommunications company may  
23          petition the Public Service Commission to become a  
24          universal service provider and carrier of last resort;  
25          amending s. 364.0361, F.S.; providing exclusivity for  
26          certain regulations; amending s. 364.051, F.S.; conforming  
27          terminology; providing circumstances under which certain  
28          telecommunication companies may elect alternative  
29          regulations; providing an exception; prohibiting an  
30          increase in certain regulations on competitive local



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31 exchange telecommunications companies; amending s.  
32 364.052, F.S.; conforming terminology; amending s.  
33 364.058, F.S.; providing for an expedited process to  
34 facilitate quick resolution of disputes between  
35 telecommunications companies; providing rulemaking  
36 authority; creating s. 364.059, F.S.; providing procedures  
37 for staying election of local exchange telecommunications  
38 companies to be subject to alternative regulations;  
39 requiring the Public Service Commission to provide  
40 benchmarks and criteria for granting stays; providing  
41 rulemaking authority; amending s. 364.10, F.S.; requiring  
42 certain local exchange telecommunications companies to  
43 provide Lifeline services to certain persons; providing  
44 for eligibility determinations by the Public Counsel for  
45 receipt of such services; prohibiting rate increases for  
46 basic local telecommunications services provided to such  
47 eligible persons; requiring distribution of certain  
48 materials; requiring annual reports; amending ss. 364.16,  
49 364.161, and 364.162, F.S.; conforming terminology;  
50 amending s. 364.163, F.S.; deleting obsolete language;  
51 changing period in which intrastate access rates are  
52 capped; removing limitations on certain rate increases;  
53 eliminating certain fees; providing presumption of  
54 validity for certain tariff changes made by intrastate  
55 interexchange telecommunications companies; creating s.  
56 364.164, F.S.; authorizing local exchange  
57 telecommunications companies to petition the Public  
58 Service Commission for reduction of intrastate network  
59 access rates under certain circumstances; requiring  
60 revenue neutrality; providing criteria for the commission



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61 to consider; amending s. 364.337, F.S.; conforming  
 62 terminology; amending s. 364.3376, F.S.; eliminating the  
 63 requirement that intrastate interexchange  
 64 telecommunications companies obtain a certificate of  
 65 public convenience prior to providing operator services;  
 66 amending ss. 364.502 and 365.172, F.S.; conforming  
 67 terminology; amending ss. 196.012, 199.183, 212.08,  
 68 290.007, 350.0605, 364.602, and 489.103, F.S.; correcting  
 69 cross references to s. 364.02, F.S.; providing an  
 70 effective date.

71

72 Be It Enacted by the Legislature of the State of Florida:

73

74 Section 1. This act may be known by the popular name the  
 75 "Tele-Competition Innovation and Infrastructure Enhancement Act  
 76 of 2003."

77 Section 2. Subsection (3) of section 364.01, Florida  
 78 Statutes, is amended to read:

79 364.01 Powers of commission, legislative intent.--

80 (3) The Legislature finds that the competitive provision  
 81 of telecommunications services, including local exchange  
 82 telecommunications service, is in the public interest and will  
 83 provide customers with freedom of choice, encourage the  
 84 introduction of new telecommunications service, encourage  
 85 technological innovation, and encourage investment in  
 86 telecommunications infrastructure. The Legislature further finds  
 87 that the transition from the monopoly provision of local  
 88 exchange service to the competitive provision thereof will  
 89 require appropriate regulatory oversight to protect consumers  
 90 and provide for the development of fair and effective



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91 competition, but nothing in this chapter shall limit the  
92 availability to any party of any remedy under state or federal  
93 antitrust laws. The Legislature further finds that changes in  
94 regulations allowing increased competition in telecommunications  
95 services could provide the occasion for increases in the  
96 telecommunications workforce; therefore, it is in the public  
97 interest that competition in telecommunications services lead to  
98 a situation that enhances the high-technological skills and the  
99 economic status of the telecommunications workforce. The  
100 Legislature further finds that the provision of voice-over-  
101 internet protocol (VOIP) free of unnecessary regulation,  
102 regardless of the provider, is in the public interest.

103 Section 3. Section 364.02, Florida Statutes, is amended to  
104 read:

105 364.02 Definitions.--As used in this chapter:

106 (1)~~(2)~~ "Basic local telecommunications service" means  
107 voice-grade, flat-rate residential, and flat-rate single-line  
108 business local exchange services which provide dial tone, local  
109 usage necessary to place unlimited calls within a local exchange  
110 area, dual tone multifrequency dialing, and access to the  
111 following: emergency services such as "911," all locally  
112 available interexchange companies, directory assistance,  
113 operator services, relay services, and an alphabetical directory  
114 listing. For a local exchange telecommunications company, such  
115 term shall include any extended area service routes, and  
116 extended calling service in existence or ordered by the  
117 commission on or before July 1, 1995.

118 (2)~~(3)~~ "Commercial mobile radio service provider" means a  
119 commercial mobile radio service provider as defined by and  
120 pursuant to 47 U.S.C. ss. 153(n) and 332(d).



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121        ~~(3)~~(4) "Commission" means the Florida Public Service  
122 Commission.

123        ~~(4)~~(1) "Competitive Alternative local exchange  
124 telecommunications company" means any company certificated by  
125 the commission to provide local exchange telecommunications  
126 services in this state on or after July 1, 1995.

127        (5) "Corporation" includes a corporation, company,  
128 association, or joint stock association.

129        ~~(6)~~ "Intrastate interexchange telecommunications company"  
130 means any entity that provides intrastate interexchange  
131 telecommunications services.

132        ~~(7)~~(6) "Local exchange telecommunications company" means  
133 any company certificated by the commission to provide local  
134 exchange telecommunications service in this state on or before  
135 June 30, 1995.

136        ~~(8)~~(7) "Monopoly service" means a telecommunications  
137 service for which there is no effective competition, either in  
138 fact or by operation of law.

139        ~~(9)~~(8) "Nonbasic service" means any telecommunications  
140 service provided by a local exchange telecommunications company  
141 other than a basic local telecommunications service, a local  
142 interconnection arrangement described in s. 364.16, or a network  
143 access service described in s. 364.163.

144        ~~(10)~~(9) "Operator service" includes, but is not limited  
145 to, billing or completion of third-party, person-to-person,  
146 collect, or calling card or credit card calls through the use of  
147 a live operator or automated equipment.

148        ~~(11)~~(10) "Operator service provider" means a person who  
149 furnishes operator service through a call aggregator.

150        ~~(12)~~(11) "Service" is to be construed in its broadest and



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151 most inclusive sense. The term "service" does not include voice-  
 152 over-internet protocol service for purposes of regulation by the  
 153 commission. Nothing herein shall affect the rights and  
 154 obligations of any entity related to the payment of switched  
 155 network access rates or other intercarrier compensation, if any,  
 156 related to voice-over-internet protocol service.

157 ~~(13)~~(12) "Telecommunications company" includes every  
 158 corporation, partnership, and person and their lessees,  
 159 trustees, or receivers appointed by any court whatsoever, and  
 160 every political subdivision in the state, offering two-way  
 161 telecommunications service to the public for hire within this  
 162 state by the use of a telecommunications facility. The term  
 163 "telecommunications company" does not include:

164 (a) An entity which provides a telecommunications facility  
 165 exclusively to a certificated telecommunications company;

166 (b) An entity which provides a telecommunications facility  
 167 exclusively to a company which is excluded from the definition  
 168 of a telecommunications company under this subsection;

169 (c) A commercial mobile radio service provider;

170 (d) A facsimile transmission service;

171 (e) A private computer data network company not offering  
 172 service to the public for hire; ~~or~~

173 (f) A cable television company providing cable service as  
 174 defined in 47 U.S.C. s. 522; or-

175 (g) An intrastate interexchange telecommunications  
 176 company.

177

178 However, each commercial mobile radio service provider and each  
 179 intrastate interexchange telecommunications company shall

180 continue to be liable for any taxes imposed pursuant to chapters



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181 202, 203, and 212 and any fees assessed pursuant to ss. ~~s.~~  
 182 364.025 and 364.336. Each intrastate interexchange  
 183 telecommunications company shall continue to be subject to ss.  
 184 364.04, 364.10(3)(a) and (d), 364.163, 364.285, 364.501,  
 185 364.603, and 364.604, shall provide the commission with such  
 186 current information as the commission deems necessary to contact  
 187 and communicate with the company, shall continue to pay  
 188 intrastate switched network access rates or other intercarrier  
 189 compensation to the local exchange telecommunications company or  
 190 the competitive local exchange telecommunications company for  
 191 the origination and termination of interexchange  
 192 telecommunications service, and shall reduce its intrastate long  
 193 distance toll rates in accordance with s. 364.163(2).

194 ~~(14)~~(13) "Telecommunications facility" includes real  
 195 estate, easements, apparatus, property, and routes used and  
 196 operated to provide two-way telecommunications service to the  
 197 public for hire within this state.

198 Section 4. Section 364.025, Florida Statutes, is amended  
 199 to read:

200 364.025 Universal service.--

201 (1) For the purposes of this section, the term "universal  
 202 service" means an evolving level of access to telecommunications  
 203 services that, taking into account advances in technologies,  
 204 services, and market demand for essential services, the  
 205 commission determines should be provided at just, reasonable,  
 206 and affordable rates to customers, including those in rural,  
 207 economically disadvantaged, and high-cost areas. It is the  
 208 intent of the Legislature that universal service objectives be  
 209 maintained after the local exchange market is opened to  
 210 competitively provided services. It is also the intent of the



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211 Legislature that during this transition period the ubiquitous  
 212 nature of the local exchange telecommunications companies be  
 213 used to satisfy these objectives. Until ~~For a period of 8 years~~  
 214 ~~after~~ January 1, 2009 ~~1996~~, each local exchange  
 215 telecommunications company shall be required to furnish basic  
 216 local exchange telecommunications service within a reasonable  
 217 time period to any person requesting such service within the  
 218 company's service territory.

219 (2) The Legislature finds that each telecommunications  
 220 company should contribute its fair share to the support of the  
 221 universal service objectives and carrier-of-last-resort  
 222 obligations. For a transitional period not to exceed January 1,  
 223 2009 ~~2004~~, the interim mechanism for maintaining universal  
 224 service objectives and funding carrier-of-last-resort  
 225 obligations shall be established by the commission, pending the  
 226 implementation of a permanent mechanism. The interim mechanism  
 227 shall be applied in a manner that ensures that each competitive  
 228 ~~alternative~~ local exchange telecommunications company  
 229 contributes its fair share to the support of universal service  
 230 and carrier-of-last-resort obligations. The interim mechanism  
 231 applied to each competitive ~~alternative~~ local exchange  
 232 telecommunications company shall reflect a fair share of the  
 233 local exchange telecommunications company's recovery of  
 234 investments made in fulfilling its carrier-of-last-resort  
 235 obligations, and the maintenance of universal service  
 236 objectives. The commission shall ensure that the interim  
 237 mechanism does not impede the development of residential  
 238 consumer choice or create an unreasonable barrier to  
 239 competition. In reaching its determination, the commission shall  
 240 not inquire into or consider any factor that is inconsistent





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241 with s. 364.051(1)(c). The costs and expenses of any government  
 242 program or project required in part II of this chapter shall not  
 243 be recovered under this section.

244 (3) In the event any party, prior to January 1, 2009 ~~2004~~,  
 245 believes that circumstances have changed substantially to  
 246 warrant a change in the interim mechanism, that party may  
 247 petition the commission for a change, but the commission shall  
 248 grant such petition only after an opportunity for a hearing and  
 249 a compelling showing of changed circumstances, including that  
 250 the provider's customer population includes as many residential  
 251 as business customers. The commission shall act on any such  
 252 petition within 120 days.

253 (4)(a) Prior to January 1, 2009 ~~2004~~, the Legislature  
 254 shall establish a permanent universal service mechanism upon the  
 255 effective date of which any interim recovery mechanism for  
 256 universal service objectives or carrier-of-last-resort  
 257 obligations imposed on competitive ~~alternative~~ local exchange  
 258 telecommunications companies shall terminate.

259 (b) To assist the Legislature in establishing a permanent  
 260 universal service mechanism, the commission, by February 15,  
 261 1999, shall determine and report to the President of the Senate  
 262 and the Speaker of the House of Representatives the total  
 263 forward-looking cost, based upon the most recent commercially  
 264 available technology and equipment and generally accepted design  
 265 and placement principles, of providing basic local  
 266 telecommunications service on a basis no greater than a wire  
 267 center basis using a cost proxy model to be selected by the  
 268 commission after notice and opportunity for hearing.

269 (c) In determining the cost of providing basic local  
 270 telecommunications service for small local exchange



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271 telecommunications companies, which serve less than 100,000  
 272 access lines, the commission shall not be required to use the  
 273 cost proxy model selected pursuant to paragraph (b) until a  
 274 mechanism is implemented by the Federal Government for small  
 275 companies, but no sooner than January 1, 2001. The commission  
 276 shall calculate a small local exchange telecommunications  
 277 company's cost of providing basic local telecommunications  
 278 services based on one of the following options:

- 279 1. A different proxy model; or
- 280 2. A fully distributed allocation of embedded costs,  
 281 identifying high-cost areas within the local exchange area the  
 282 company serves and including all embedded investments and  
 283 expenses incurred by the company in the provision of universal  
 284 service. Such calculations may be made using fully distributed  
 285 costs consistent with 47 C.F.R. parts 32, 36, and 64. The  
 286 geographic basis for the calculations shall be no smaller than a  
 287 census block group.

288 (5) After January 1, 2001, a competitive ~~an alternative~~  
 289 local exchange telecommunications company may petition the  
 290 commission to become the universal service provider and carrier  
 291 of last resort in areas requested to be served by that  
 292 competitive ~~alternative~~ local exchange telecommunications  
 293 company. Upon petition of a competitive ~~an alternative~~ local  
 294 exchange telecommunications company, the commission shall have  
 295 120 days to vote on granting in whole or in part or denying the  
 296 petition of the competitive ~~alternative~~ local exchange company.  
 297 The commission may establish the competitive ~~alternative~~ local  
 298 exchange telecommunications company as the universal service  
 299 provider and carrier of last resort, provided that the  
 300 commission first determines that the competitive ~~alternative~~



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301 local exchange telecommunications company will provide high-  
 302 quality, reliable service. In the order establishing the  
 303 competitive alternative local exchange telecommunications  
 304 company as the universal service provider and carrier of last  
 305 resort, the commission shall set the period of time in which  
 306 such company must meet those objectives and obligations ~~and~~  
 307 ~~shall set up any mechanism needed to aid such company in~~  
 308 ~~carrying out these duties.~~

309 Section 5. Section 364.0361, Florida Statutes, is amended  
 310 to read:

311 364.0361 Local government authority; nondiscriminatory  
 312 exercise.--A local government shall treat each  
 313 telecommunications company in a nondiscriminatory manner when  
 314 exercising its authority to grant franchises to a  
 315 telecommunications company or to otherwise establish conditions  
 316 or compensation for the use of rights-of-way or other public  
 317 property by a telecommunications company. No local government  
 318 shall have the authority to directly or indirectly regulate the  
 319 terms and conditions, including, but not limited to, the  
 320 operating systems, qualifications, services, service quality,  
 321 service territory, and prices, applicable to or in connection  
 322 with the provision of any broadband or information service.  
 323 Nothing herein relieves any provider from any obligations under  
 324 s. 166.046 or s. 337.401.

325 Section 6. Paragraph (a) of subsection (1) and subsection  
 326 (3) of section 364.051, Florida Statutes, are amended, and new  
 327 subsections (6), (7), and (8) are added to said section, to  
 328 read:

329 364.051 Price regulation.--

330 (1) SCHEDULE.--Notwithstanding any other provisions of



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331 this chapter, the following local exchange telecommunications  
332 companies shall become subject to the price regulation described  
333 in this section on the following dates:

334 (a) For a local exchange telecommunications company with  
335 100,000 or more access lines in service as of July 1, 1995, such  
336 company may file with the commission a notice of election to be  
337 under price regulation effective January 1, 1996, or when a  
338 competitive ~~an alternative~~ local exchange telecommunications  
339 company is certificated to provide local exchange  
340 telecommunications services in its service territory, whichever  
341 is later.

342 (3) In the event that it is determined that the level of  
343 competition justifies the elimination of price caps in an  
344 exchange served by a local exchange telecommunications company  
345 with less than 3 million basic local telecommunications service  
346 access lines in service, or at the end of 5 years for any local  
347 exchange telecommunications company, the local exchange  
348 telecommunications company may thereafter on 30 days' notice  
349 adjust its basic service revenues ~~prices~~ once in any 12-month  
350 period in an amount not to exceed the change in inflation less 1  
351 percent. Inflation shall be measured by the changes in the Gross  
352 Domestic Product Fixed 1987 Weights Price Index, or successor  
353 fixed weight price index, published in the Survey of Current  
354 Business or a publication, by the United States Department of  
355 Commerce. In the event any local exchange telecommunications  
356 company, after January 1, 2001, believes that the level of  
357 competition justifies the elimination of any form of price  
358 regulation, the company may petition the Legislature.

359 (6) At such time that a local exchange telecommunications  
360 company with more than 1 million access lines in service has



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361 reduced its intrastate switched network access rates to parity,  
362 as defined in s. 364.164(5), such local exchange  
363 telecommunications company's basic local telecommunications  
364 service may, at the company's election, thereafter be subject to  
365 the same regulatory treatment as its nonbasic services. The  
366 company's retail service quality requirements that are not  
367 already equal to the service quality requirements imposed upon  
368 the competitive local exchange telecommunications companies  
369 shall thereafter be no greater than those imposed upon  
370 competitive local exchange telecommunications companies, unless  
371 the commission, within 120 days after the company's election,  
372 determines otherwise. In such event, the commission may grant  
373 some reductions in service quality requirements and in some or  
374 all of the company's local calling areas. In no event shall the  
375 commission impose retail service quality requirements on  
376 competitive local exchange telecommunications companies greater  
377 than existed on January 1, 2003.

378 (7) In the event that a local exchange telecommunications  
379 company elects, pursuant to subsection (6), to subject its  
380 retail basic local telecommunications services to the same  
381 regulatory treatment as its nonbasic services, such local  
382 exchange telecommunications company may thereafter petition the  
383 commission for regulatory treatment of its retail services at a  
384 level no greater than that imposed by the commission upon  
385 competitive local exchange telecommunications companies. The  
386 local exchange telecommunications company shall:

387 (a) Show that granting the petition is in the public  
388 interest.

389 (b) Reduce its intrastate switched network access rates to  
390 its local reciprocal interconnection rate upon the grant of the



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391 petition.

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393 The commission shall act upon such petition within 9 months  
394 after its filing with the commission. In making its  
395 determination to either grant or deny the petition, the  
396 commission shall determine the extent to which the level of  
397 competition faced by the local exchange telecommunications  
398 company permits, and will continue to permit, the company to  
399 have its retail services regulated no differently than the  
400 competitive local exchange telecommunications companies are then  
401 being regulated. In no event shall the commission increase the  
402 level of regulation for competitive local exchange  
403 telecommunications companies greater than that which exists on  
404 the date the local exchange telecommunications company files its  
405 petition.

406 (8) The provisions described in subsections (6) and (7)  
407 shall apply to any local exchange telecommunications company  
408 with 1 million or less access lines in service that has reduced  
409 its intrastate switched network access rates to a level equal to  
410 the company's interstate switched network access rates in effect  
411 on January 1, 2003.

412 Section 7. Subsections (2), (3), and (4) of section  
413 364.052, Florida Statutes, are amended to read:

414 364.052 Regulatory methods for small local exchange  
415 telecommunications companies.--

416 (2) A small local exchange telecommunications company  
417 shall remain under rate base, rate of return regulation until  
418 the company elects to become subject to s. 364.051, or January  
419 1, 2001, whichever occurs first. A company subject to this  
420 section, electing to be regulated pursuant to s. 364.051, will



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421 have any overearnings attributable to a period prior to the date  
422 on which the company makes the election subject to refund or  
423 other disposition by the commission. Small local exchange  
424 telecommunications companies not electing the price regulation  
425 provided for under s. 364.051 shall also be regulated pursuant  
426 to ss. 364.03, 364.035(1) and (2), 364.05, and 364.055 and other  
427 provisions necessary for rate base, rate of return regulation.  
428 If a small local exchange telecommunications company has not  
429 elected to be regulated under s. 364.051, by January 1, 2001,  
430 the company shall remain under rate base, rate of return  
431 regulation until such time as a certificated competitive  
432 ~~alternative~~ local exchange company provides basic local  
433 telecommunications service in the company's territory. At such  
434 time, the small local exchange telecommunications company shall  
435 be subject to s. 364.051.

436 (a) The commission shall establish, by rule, ranges of  
437 basic factors for lives and salvage values to be used in  
438 developing depreciation rates for companies subject to this  
439 section. Companies shall have the option of using basic factors  
440 within the established ranges or of filing depreciation studies.

441 (b) The commission shall adopt, by rule, streamlined  
442 procedures for regulating companies subject to this section.  
443 These procedures shall minimize the burdens of regulation with  
444 regard to audits, investigations, service standards, cost  
445 studies, reports, and other matters, and the commission shall  
446 establish, by rule, only those procedures that are cost-  
447 justified and are in the public interest so that universal  
448 service may be promoted. Upon petition filed in this rulemaking  
449 proceeding, the commission shall review and may approve any  
450 regulations unique to the specific circumstances of a company



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451 subject to this section.

452 (3) A company subject to this section may at any time  
453 after January 1, 1996, elect to be regulated pursuant to s.  
454 364.051. If such a company so elects or provides cable  
455 television programming services directly or as video dial tone  
456 applications authorized under 47 U.S.C. s. 214, except as  
457 provided for in compliance with part II of this chapter, a  
458 certificated competitive ~~alternative~~ local exchange company may  
459 provide local exchange telecommunications services within the  
460 territory of the electing company.

461 (4) Any competitive ~~alternative~~ local exchange  
462 telecommunications company competing within the territory of any  
463 small local exchange telecommunications company must do so on an  
464 exchange-wide basis for the provision of flat-rated, switched  
465 residential and business local exchange telecommunications  
466 services in all exchanges in which they elect to serve, unless  
467 the commission determines otherwise. The competitive ~~alternative~~  
468 local exchange telecommunications company may petition and the  
469 commission has the authority to determine that it is in the  
470 public interest for a competitive ~~an alternative~~ local exchange  
471 telecommunications company to service a geographic territory  
472 that is less than an entire exchange.

473 Section 8. Subsection (3) is added to section 364.058,  
474 Florida Statutes, to read:

475 364.058 Limited proceedings.--

476 (3) The commission shall implement an expedited process to  
477 facilitate the quick resolution of disputes between  
478 telecommunications companies. The process implemented by the  
479 commission shall, to the extent feasible, minimize the time  
480 necessary to reach a decision on a dispute. The commission may





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481 limit the use of the expedited process based on the number of  
482 parties, the number of issues, or the complexity of issues. For  
483 any proceeding conducted pursuant to the expedited process, the  
484 commission shall make its determination within 120 days after a  
485 petition is filed or a motion is made. The commission shall  
486 adopt rules to implement this subsection.

487 Section 9. Section 364.059, Florida Statutes, is created  
488 to read:

489 364.059 Procedures for seeking stay; benchmark;  
490 criteria.--

491 (1) At such time that a local exchange telecommunications  
492 company has elected, pursuant to s. 364.051(6), to have its  
493 basic local telecommunications services treated the same as its  
494 nonbasic services, the following procedures shall be available:

495 (a) Any petition filed by a substantially interested party  
496 against a local exchange telecommunications company seeking a  
497 stay of the effective date of a price reduction for a basic  
498 local telecommunications service, alleging an anticompetitive  
499 price reduction pursuant to s. 364.051(5), s. 364.08, s. 364.09,  
500 s. 364.10, or s. 364.3381, shall be resolved by the commission  
501 pursuant to this section and by an order issued within 45 days  
502 after the date the petition is filed.

503 (b) The petitioner shall provide such showing as is  
504 required by law for a temporary injunction, and the local  
505 exchange telecommunications company shall have 7 days within  
506 which to respond to the petition.

507 (c) Nothing contained herein shall prevent the local  
508 exchange telecommunications company from raising any affirmative  
509 defenses provided by law.

510 (d) No stay shall be granted until the commission has



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511 voted on the petition after an opportunity for oral argument.

512 (e) If the commission grants a stay, the stay shall not  
513 exceed 45 days and the commission shall make a determination on  
514 the merits within the 45-day period, unless the commission  
515 extends this time period, not to exceed 15 days, based on a  
516 delay in the availability of relevant cost studies and  
517 supporting documents.

518 (f) In the event the commission denies a stay, nothing  
519 herein prevents the petitioner from filing allegations of  
520 anticompetitive price reductions as otherwise provided by law.

521 (g) The petitioner shall have the burden of proof that a  
522 statutory violation has occurred, but the commission and the  
523 petitioner shall have access, pursuant to s. 364.183, to the  
524 local exchange telecommunications company's relevant cost  
525 studies and supporting documents.

526 (h) The commission shall reject any petition within 15  
527 days after filing if the local exchange telecommunications  
528 company challenges, and the commission determines, that the  
529 petition on its face alleges the same violations and the same  
530 facts that have previously been resolved against the petitioner.

531 (2) For purposes of carrying out the procedures set forth  
532 in subsection (1), the commission shall establish an objective  
533 benchmark, such as a price or cost floor, by which the  
534 commission may determine whether a requested stay of a basic  
535 local telecommunications service price reduction is warranted.  
536 Such benchmark shall be based upon generally accepted economic  
537 costing and pricing principles and judicial or regulatory  
538 costing and pricing precedent. The commission shall also  
539 establish the criteria for determining on the merits whether the  
540 basic local telecommunications service price reduction is in



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541 fact anticompetitive. Such criteria shall be based upon  
542 generally accepted economic competitive costing and pricing  
543 principles and judicial or regulatory precedent for detecting  
544 the presence of anticompetitive pricing. In no event, however,  
545 shall the commission establish benchmarks or criteria that are  
546 inconsistent with or interfere with the competitive pricing  
547 conduct permitted by existing law. The commission shall  
548 establish the benchmark and criteria by rule, which rule  
549 adoption proceeding shall commence no earlier than January 1,  
550 2005, and a final order shall issue within 120 days after  
551 commencement. Such benchmarks and criteria shall in any event be  
552 available when subsection (1) becomes effective. In the event  
553 that the provisions of s. 364.164(8) become operative, the  
554 commission shall immediately commence establishment of the  
555 benchmark and criteria required for the procedures set forth in  
556 subsection (1) and this subsection, but nothing herein shall  
557 prevent or delay a local exchange telecommunications company  
558 from making and implementing the election provided for in s.  
559 364.051(6).

560 Section 10. Subsection (3) is added to section 364.10,  
561 Florida Statutes, to read:

562 364.10 Undue advantage to person or locality prohibited;  
563 exception.--

564 (3)(a) Effective September 1, 2003, any local exchange  
565 telecommunications company authorized by the commission to  
566 reduce its switched network access rate pursuant to s. 364.164  
567 shall have tariffed and shall provide Lifeline service to any  
568 otherwise eligible customer or potential customer who meets an  
569 income eligibility test at 125 percent or less of the federal  
570 poverty income guidelines for Lifeline customers. Such test for



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571 eligibility shall augment, rather than replace, the eligibility  
572 standards established by federal law and based on participation  
573 in certain low-income assistance programs. Each intrastate  
574 interexchange telecommunications company shall, effective  
575 September 1, 2003, file a tariff providing at a minimum the  
576 intrastate interexchange telecommunications carrier's current  
577 Lifeline benefits and exemptions to Lifeline customers who meet  
578 the income eligibility test set forth in this subsection. The  
579 Office of Public Counsel shall serve as the state agency that  
580 certifies and maintains claims submitted by a customer for  
581 eligibility under the income test authorized by this subsection.

582 (b) Each local exchange telecommunications company subject  
583 to this subsection shall provide to each state and federal  
584 agency providing benefits to persons eligible for Lifeline  
585 service applications, brochures, pamphlets, or other materials  
586 that inform such persons of their eligibility for Lifeline, and  
587 each state agency providing such benefits shall furnish the  
588 materials to affected persons at the time they apply for  
589 benefits.

590 (c) Any local exchange telecommunications company customer  
591 receiving Lifeline benefits shall not be subject to any  
592 residential basic local telecommunications service rate  
593 increases authorized by s. 364.164 until such time as the local  
594 exchange telecommunications company reaches parity as defined in  
595 s. 364.164(5) or until the customer no longer qualifies for the  
596 Lifeline benefits established by this section or s. 364.105, or  
597 unless otherwise determined by the commission upon petition by a  
598 local exchange telecommunications company.

599 (d) By December 31, 2003, each state agency that provides  
600 benefits to persons eligible for Lifeline service shall



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601 undertake, in cooperation with the Department of Children and  
602 Family Services, the commission, and telecommunications  
603 companies providing Lifeline services, the development of  
604 procedures to promote Lifeline participation.

605 (e) The commission shall report to the Governor, the  
606 Speaker of the House of Representatives, and the President of  
607 the Senate by December 31 each year on the number of customers  
608 who are subscribing to Lifeline service and the effectiveness of  
609 any processes to promote participation.

610 Section 11. Subsection (2), paragraph (a) of subsection  
611 (3), and subsection (5) of section 364.16, Florida Statutes, are  
612 amended to read:

613 364.16 Connection of lines and transfers; local  
614 interconnection; telephone number portability.--

615 (2) Each competitive ~~alternative~~ local exchange  
616 telecommunications company shall provide access to, and  
617 interconnection with, its telecommunications services to any  
618 other provider of local exchange telecommunications services  
619 requesting such access and interconnection at nondiscriminatory  
620 prices, terms, and conditions. If the parties are unable to  
621 negotiate mutually acceptable prices, terms, and conditions  
622 after 60 days, either party may petition the commission and the  
623 commission shall have 120 days to make a determination after  
624 proceeding as required by s. 364.162(2) pertaining to  
625 interconnection services.

626 (3) Each local exchange telecommunications company shall  
627 provide access to, and interconnection with, its  
628 telecommunications facilities to any other provider of local  
629 exchange telecommunications services requesting such access and  
630 interconnection at nondiscriminatory prices, rates, terms, and



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631 conditions established by the procedures set forth in s.  
632 364.162.

633 (a) No local exchange telecommunications company or  
634 competitive alternative ~~alternative~~ local exchange telecommunications  
635 company shall knowingly deliver traffic, for which terminating  
636 access service charges would otherwise apply, through a local  
637 interconnection arrangement without paying the appropriate  
638 charges for such terminating access service.

639 (5) When requested, each certificated telecommunications  
640 company shall provide access to any poles, conduits, rights-of-  
641 way, and like facilities that it owns or controls to any local  
642 exchange telecommunications company or competitive alternative  
643 local exchange telecommunications company pursuant to reasonable  
644 rates and conditions mutually agreed to which do not  
645 discriminate between similarly situated companies.

646 Section 12. Subsections (3) and (4) of section 364.161,  
647 Florida Statutes, are amended to read:

648 364.161 Unbundling and resale.--

649 (3) Only after a competitive ~~an alternative~~ local exchange  
650 telecommunications company has been determined to be a carrier  
651 of last resort shall such company, upon request by another  
652 telecommunications provider, be required, for purposes of  
653 resale, to unbundle its local exchange services, network  
654 features, functions and capabilities, including its local loop,  
655 to the extent such unbundling is technically and economically  
656 feasible. The parties shall negotiate the terms, conditions, and  
657 prices of any feasible unbundling request. If the parties cannot  
658 reach a satisfactory resolution within 60 days, either party may  
659 petition the commission to arbitrate the dispute and the  
660 commission shall make a determination within 120 days. The



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661 prices shall not be below cost.

662 (4) A local exchange telecommunications company shall  
663 provide unbundled network elements, services for resale,  
664 requested repairs, and necessary support services in a timely  
665 manner. The Public Service Commission shall maintain a file of  
666 all complaints by competitive ~~alternative~~ local exchange  
667 telecommunications companies against local exchange  
668 telecommunications companies regarding timeliness and adequacy  
669 of service. This information, including how and when each  
670 complaint was resolved, shall be included with the commission's  
671 annual report to the Legislature on competition.

672 Section 13. Subsection (1) of section 364.162, Florida  
673 Statutes, is amended to read:

674 364.162 Negotiated prices for interconnection and for the  
675 resale of services and facilities; commission rate setting.--

676 (1) A competitive ~~An alternative~~ local exchange  
677 telecommunications company shall have 60 days from the date it  
678 is certificated to negotiate with a local exchange  
679 telecommunications company mutually acceptable prices, terms,  
680 and conditions of interconnection and for the resale of services  
681 and facilities. If a negotiated price is not established after  
682 60 days, either party may petition the commission to establish  
683 nondiscriminatory rates, terms, and conditions of  
684 interconnection and for the resale of services and facilities.  
685 The commission shall have 120 days to make a determination after  
686 proceeding as required by subsection (2). Whether set by  
687 negotiation or by the commission, interconnection and resale  
688 prices, rates, terms, and conditions shall be filed with the  
689 commission before their effective date. The commission shall  
690 have the authority to arbitrate any dispute regarding



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691 interpretation of interconnection or resale prices and terms and  
692 conditions.

693 Section 14. Section 364.163, Florida Statutes, is amended  
694 to read:

695 364.163 Network access services.--For purposes of this  
696 section, "network access service" is defined as any service  
697 provided by a local exchange telecommunications company to a  
698 telecommunications company certificated under this chapter or  
699 licensed by the Federal Communications Commission to access the  
700 local exchange telecommunications network, excluding the local  
701 interconnection arrangements in s. 364.16 and the resale  
702 arrangements in s. 364.161. Each local exchange  
703 telecommunications company subject to s. 364.051 shall maintain  
704 tariffs with the commission containing the terms, conditions,  
705 and rates for each of its network access services.

706 ~~(1) Effective January 1, 1999, the rates for switched~~  
707 ~~network access services of each company subject to this section~~  
708 ~~shall be capped at the rates in effect on January 1, 1999, and~~  
709 ~~shall remain capped until January 1, 2001. Upon the date of~~  
710 ~~filing its election with the commission, the network access~~  
711 ~~service rates of a company that elects to become subject to this~~  
712 ~~section shall be capped at the rates in effect on that date and~~  
713 ~~shall remain capped for 5 years.~~

714 (1)(2) After the termination of the caps imposed on rates  
715 by subsection (1) and after a local exchange telecommunications  
716 company's intrastate switched network access rates are reduced  
717 to or below reach parity, as defined in s. 364.164(5), the  
718 company's intrastate switched network access rates shall be and  
719 shall remain capped for 3 years thereafter with its interstate  
720 switched access rates, a company subject to this section may, on





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721 ~~30 days' notice, annually adjust any specific network access~~  
722 ~~service rate in an amount not to exceed the cumulative change in~~  
723 ~~inflation experienced after the date of the last adjustment,~~  
724 ~~provided, however, that no such adjustment shall ever exceed 3~~  
725 ~~percent annually of the then-current prices. Inflation shall be~~  
726 ~~measured by the changes in Gross Domestic Product Fixed 1987~~  
727 ~~Weights Price Index, or successor fixed weight price index,~~  
728 ~~published in the Survey of Current Business, or successor~~  
729 ~~publication, by the United States Department of Commerce.~~

730 ~~(3) After the termination of the caps imposed on rates by~~  
731 ~~subsection (1), a company subject to this section may, at any~~  
732 ~~time, petition the commission for a network access service rate~~  
733 ~~change to recover the cost of governmentally mandated projects~~  
734 ~~or programs or an increase in federal or state income tax~~  
735 ~~incurred after that date. The costs and expenses of the~~  
736 ~~government program or project required in part II of this~~  
737 ~~chapter shall not be recovered under this subsection unless such~~  
738 ~~costs and expenses are incurred in the absence of a bid and~~  
739 ~~subject to carrier of last resort obligations as provided for in~~  
740 ~~part II of this chapter. With respect to governmentally mandated~~  
741 ~~projects and programs, such petition shall be acted upon no~~  
742 ~~later than 90 days after the date of filing. A company subject~~  
743 ~~to this section shall show the commission that the cost of a~~  
744 ~~project or program is not recoverable either from the government~~  
745 ~~mandating the project or program or from the beneficiaries of~~  
746 ~~the project or program through user fees or other new revenue~~  
747 ~~sources from the project or program, and to the extent that cost~~  
748 ~~decreases resulting from the project or program are reflected as~~  
749 ~~an offset to cost increases. A company subject to this section~~  
750 ~~shall decrease its network access rates by amounts that reflect~~



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751 ~~any federal or state income tax reduction. Nothing contained in~~  
752 ~~this section shall allow any revisions in the rates, terms, and~~  
753 ~~conditions for commercial mobile radio service access, which~~  
754 ~~revisions are inconsistent with the requirements or~~  
755 ~~methodologies of the Federal Communications Commission.~~

756 ~~(4) A company subject to this section may choose to~~  
757 ~~implement all or a portion of a rate increase allowed for~~  
758 ~~network access service by subsections (1), (2), and (3).~~  
759 ~~Notwithstanding subsections (1), (2), and (3), a company subject~~  
760 ~~to this section may choose to decrease network service rates at~~  
761 ~~any time, and decreased rates shall become effective upon 7~~  
762 ~~days' notice.~~

763 ~~(5) Company proposed changes to the terms and conditions~~  
764 ~~for existing network access services in accordance with~~  
765 ~~subsections (1), (2), (3), and (4) shall be presumed valid and~~  
766 ~~become effective upon 15 days' notice. Company proposed rate~~  
767 ~~reductions shall become effective upon 7 days' notice. Rate~~  
768 ~~increases made by the local exchange telecommunications company~~  
769 ~~shall be presumed valid and become effective on the date~~  
770 ~~specified in the tariff, but in no event earlier than 30 days~~  
771 ~~after the filing of such tariff. The commission shall have~~  
772 ~~continuing regulatory oversight of local exchange~~  
773 ~~telecommunications company provided network access services for~~  
774 ~~purposes of determining the correctness of any price increase~~  
775 ~~resulting from the application of the inflation index and making~~  
776 ~~any necessary adjustments, establishing reasonable service~~  
777 ~~quality criteria, and assuring resolution of service complaints.~~  
778 ~~No later than 30 days after the filing of such tariff, the~~  
779 ~~commission may, with respect to determining the correctness of~~  
780 ~~any price increase, vote, without hearing, the local exchange~~



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781 ~~telecommunications company to hold subject to refund all~~  
782 ~~revenues collected under the rate increase. Within 60 days after~~  
783 ~~such order, the commission must make a determination either~~  
784 ~~compelling a refund of all or part of such revenues or releasing~~  
785 ~~them from such requirement.~~

786 (2)(6) ~~Any local exchange telecommunications company with~~  
787 ~~more than 100,000, but fewer than 3 million, basic local~~  
788 ~~telecommunications service access lines in service on July 1,~~  
789 ~~1995, shall reduce its intrastate switched access rates by 5~~  
790 ~~percent on July 1, 1998, and by 10 percent on October 1, 1998.~~  
791 Any intrastate interexchange telecommunications company whose  
792 intrastate switched network access rate is reduced as a result  
793 of the rate adjustments ~~decreases~~ made by a local exchange  
794 telecommunications company in accordance with s. 364.164 ~~this~~  
795 ~~subsection~~ shall decrease its intrastate long distance revenues  
796 ~~rates~~ by the amount necessary to return the benefits of such  
797 reduction to both its residential and business customers ~~but~~  
798 ~~shall not reduce per minute intra-LATA toll rates by a~~  
799 ~~percentage greater than the per minute intrastate switched~~  
800 ~~access rate reductions required by this act. The intrastate~~  
801 ~~interexchange telecommunications company ~~carrier~~ may determine~~  
802 ~~the specific intrastate rates to be decreased, provided that~~  
803 ~~residential and business customers benefit from the rate~~  
804 ~~decreases. Any in-state connection fee or similarly named fee~~  
805 ~~shall be eliminated by July 1, 2006, provided that the timetable~~  
806 ~~determined pursuant to s. 364.164(1) reduces intrastate switched~~  
807 ~~network access rates in an amount that results in the~~  
808 ~~elimination of such fee in a revenue-neutral manner. The tariff~~  
809 ~~changes, if any, made by the intrastate interexchange~~  
810 ~~telecommunications company to carry out the requirements of this~~



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811 subsection shall be presumed valid and become effective on 1  
812 day's notice.

813 ~~(7) Telecommunications company intrastate switched access~~  
814 ~~and customer long distance rate reductions shall become~~  
815 ~~effective on October 1 of each relevant year. Rate decreases~~  
816 ~~proposed in tariff revisions filed by the telecommunications~~  
817 ~~companies with the commission shall be presumed valid and become~~  
818 ~~effective on October 1 of each relevant year.~~

819 ~~(8) No later than 30 days after the filing of such tariff,~~  
820 ~~the commission may, with respect to determining the correctness~~  
821 ~~of any rate decrease, vote, without hearing, the~~  
822 ~~telecommunications company to hold subject to refund all~~  
823 ~~intrastate switched access or customer long distance rate~~  
824 ~~revenues collected after the rate decrease. Within 60 days after~~  
825 ~~such order, the commission must make a determination either~~  
826 ~~compelling a refund of the appropriate part of such revenues or~~  
827 ~~releasing all such revenues from such requirement.~~

828 (3)(9) The commission shall have continuing regulatory  
829 oversight of intrastate switched network access and customer  
830 long distance rates for purposes of determining the correctness  
831 of any rate decrease by a telecommunications company resulting  
832 from the application of s. 364.164 ~~this section~~ and making any  
833 necessary adjustments to those rates, ~~establishing reasonable~~  
834 ~~service quality criteria, and assuring resolution of service~~  
835 ~~complaints.~~

836 Section 15. Section 364.164, Florida Statutes, is created  
837 to read:

838 364.164 Competitive market enhancement.--

839 (1) Each local exchange telecommunications company may,  
840 after July 1, 2003, petition the commission to reduce its



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841 intrastate switched network access rate in a revenue-neutral  
842 manner. The commission shall issue its final order granting or  
843 denying any petition filed pursuant to this section within 90  
844 days. In reaching its decision, the commission shall consider  
845 whether granting the petition:

846 (a) Will remove current support for basic local  
847 telecommunications services that prevents the creation of a more  
848 attractive competitive local exchange market for the benefit of  
849 residential consumers.

850 (b) Will induce enhanced market entry.

851 (c) Will require intrastate switched network access rate  
852 reductions to parity over a period of not less than 2 years or  
853 more than 4 years.

854 (d) Will be revenue neutral as defined in subsection (7)  
855 within the revenue category defined in subsection (2).

856 (2) In the event the commission grants the local exchange  
857 telecommunications company's petition, the local exchange  
858 telecommunications company is authorized, the requirements of s.  
859 364.051(3) notwithstanding, to immediately implement a revenue  
860 category mechanism consisting of basic local telecommunications  
861 service revenues and intrastate switched network access revenues  
862 to achieve revenue neutrality. The local exchange  
863 telecommunications company shall thereafter, on 45 days' notice,  
864 adjust the various prices and rates of the services within its  
865 revenue category authorized by this section once in any 12-month  
866 period in a revenue-neutral manner. In no event shall any  
867 adjustment in rates be offset entirely by the company's basic  
868 monthly recurring rate. All annual rate adjustments within the  
869 revenue category established pursuant to this section shall be  
870 implemented simultaneously and shall be revenue neutral. The



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871 commission shall, within 45 days after the rate adjustment  
872 filing, issue a final order confirming compliance with this  
873 section, and such order shall be final for all purposes.

874 (3) Any filing under this section shall be based on the  
875 company's most recent 12 months' pricing units in accordance  
876 with subsection (7) for any service included in the revenue  
877 category established under this section. The commission shall  
878 have the authority only to verify the pricing units for the  
879 purpose of ensuring that the company's specific adjustments, as  
880 authorized by this section, make the revenue category revenue  
881 neutral for each filing. Any discovery or information requests  
882 under this section shall be limited to a verification of  
883 historical pricing units necessary to fulfill the commission's  
884 specific responsibilities under this section of ensuring that  
885 the company's rate adjustments make the revenue category revenue  
886 neutral for each annual filing.

887 (4) Nothing in this section shall affect the local  
888 exchange telecommunications company's exemptions pursuant to s.  
889 364.051(1)(c) or authorize any local exchange telecommunications  
890 company to increase the cost of local exchange services to any  
891 person providing services under s. 364.3375.

892 (5) For purposes of this section, "parity" means that the  
893 local exchange telecommunications company's intrastate switched  
894 network access rate is equal to its interstate switched network  
895 access rate in effect on January 1, 2003, if the company has  
896 more than 1 million access lines in service. If the company has  
897 1 million or less access lines in service, "parity" means that  
898 the company's intrastate switched network access rate is equal  
899 to 8 cents per minute. Nothing in this section shall prevent the  
900 company from making further reductions in its intrastate



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901 switched network access rate, within the revenue category  
902 established in this section, below parity on a revenue-neutral  
903 basis, or from making other revenue-neutral rate adjustments  
904 within this category.

905 (6) For purposes of this section, "intrastate switched  
906 network access rate" means the composite of the originating and  
907 terminating network access rate for carrier common line, local  
908 channel/entrance facility, switched common transport, access  
909 tandem switching, interconnection charge, signaling, information  
910 surcharge, and local switching.

911 (7) For purposes of this section, "revenue neutral" means  
912 that the total revenue within the revenue category established  
913 pursuant to this section remains the same before and after the  
914 local exchange telecommunications company implements any rate  
915 adjustments under this section. Calculation of revenue received  
916 from each service prior to implementation of any rate adjustment  
917 shall be made by multiplying the then-current rate for each  
918 service by the most recent 12 months' actual pricing units for  
919 each service within the category, without any adjustments to the  
920 number of pricing units. Calculation of revenue for each service  
921 to be received after implementation of rate adjustments shall be  
922 made by multiplying the rate to be applicable for each service  
923 by the most recent 12 months' actual pricing units for each  
924 service within the category, without any adjustments to the  
925 number of pricing units. Billing units associated with pay  
926 telephone access lines and Lifeline service shall not be  
927 included in any calculation under this subsection.

928 (8) In the event that either the Federal Communications  
929 Commission or the commission issues a final order determining  
930 that voice-over-internet protocol service or a functionally



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931 equivalent service shall not be subject to the payment of  
 932 switched network access rates pursuant to a local exchange  
 933 telecommunications company tariff or interconnection agreement  
 934 or other law, the provisions of subsection (2) shall immediately  
 935 become operative as if the commission had granted a petition  
 936 pursuant to subsection (1). Any local exchange  
 937 telecommunications company subject to this section shall be  
 938 authorized to reduce its switched network access rates to the  
 939 company's authorized local reciprocal compensation rates in a  
 940 revenue-neutral manner, pursuant to subsections (2)-(7), in the  
 941 shortest remaining timeframe allowable under this section.

942 Section 16. Section 364.337, Florida Statutes, is amended  
 943 to read:

944 364.337 Competitive ~~Alternate~~ local exchange  
 945 telecommunications companies; intrastate interexchange  
 946 telecommunications services; certification.--

947 (1) Upon this act becoming a law, a party may file an  
 948 application for a certificate as a competitive ~~an alternative~~  
 949 local exchange telecommunications company before January 1,  
 950 1996, and the commission shall conduct its review of the  
 951 application and take all actions necessary to process the  
 952 application. However, an application shall become effective no  
 953 sooner than January 1, 1996. The commission shall grant a  
 954 certificate of authority to provide competitive ~~alternative~~  
 955 local exchange service upon a showing that the applicant has  
 956 sufficient technical, financial, and managerial capability to  
 957 provide such service in the geographic area proposed to be  
 958 served. In no event may a competitive ~~an alternative~~ local  
 959 exchange telecommunications company offer basic local  
 960 telecommunications services within the territory served by a





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961 company subject to s. 364.052 prior to January 1, 2001, unless  
962 the small local exchange telecommunications company elects to be  
963 regulated under s. 364.051 or provides cable television  
964 programming services directly or as video dial tone applications  
965 authorized under 47 U.S.C. s. 214, except as provided for in  
966 compliance with part II. It is the intent of the Legislature  
967 that the commission act expeditiously to grant certificates of  
968 authority under this section and that the grant of certificates  
969 not be affected by the application of any criteria other than  
970 that specifically enumerated in this subsection.

971 (2) Rules adopted by the commission governing the  
972 provision of competitive ~~alternative~~ local exchange  
973 telecommunications service shall be consistent with s. 364.01.  
974 The basic local telecommunications service provided by a  
975 competitive ~~an alternative~~ local exchange telecommunications  
976 company must include access to operator services, "911"  
977 services, and relay services for the hearing impaired. A  
978 competitive ~~An alternative~~ local exchange telecommunications  
979 company's "911" service shall be provided at a level equivalent  
980 to that provided by the local exchange telecommunications  
981 company serving the same area. There shall be a flat-rate  
982 pricing option for basic local telecommunications services, and  
983 mandatory measured service for basic local telecommunications  
984 services shall not be imposed. A certificated competitive  
985 ~~alternative~~ local exchange telecommunications company may  
986 petition the commission for a waiver of some or all of the  
987 requirements of this chapter, except ss. 364.16, 364.336, and  
988 subsections (1) and (5). The commission may grant such petition  
989 if determined to be in the public interest. In no event shall  
990 competitive ~~alternative~~ local exchange telecommunications



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991 companies be subject to the requirements of ss. 364.03, 364.035,  
 992 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, 364.33, and  
 993 364.3381.

994 (3) The commission shall grant a certificate of authority  
 995 to provide intrastate interexchange telecommunications service  
 996 upon a showing that the applicant has sufficient technical,  
 997 financial, and managerial capability to provide such service in  
 998 the geographic area proposed to be served.

999 (4) Rules adopted by the commission governing the  
 1000 provision of intrastate interexchange telecommunications service  
 1001 shall be consistent with s. 364.01. A certificated intrastate  
 1002 interexchange telecommunications company may petition the  
 1003 commission for a waiver for some or all of the requirements of  
 1004 this chapter, except s. 364.16, s. 364.335(3), or subsection  
 1005 (5). The commission may grant such petition if determined to be  
 1006 in the public interest. In no event shall intrastate  
 1007 interexchange telecommunications companies be subject to the  
 1008 requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055,  
 1009 364.14, 364.17, 364.18, and 364.3381.

1010 (5) The commission shall have continuing regulatory  
 1011 oversight over the provision of basic local exchange  
 1012 telecommunications service provided by a certificated  
 1013 competitive alternative local exchange telecommunications  
 1014 company or a certificated alternative access vendor for purposes  
 1015 of establishing reasonable service quality criteria, assuring  
 1016 resolution of service complaints, and ensuring the fair  
 1017 treatment of all telecommunications providers in the  
 1018 telecommunications marketplace.

1019 (6)(a) The Legislature finds the provision of alternative  
 1020 access vendor services to be in the public interest, and the



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1021 commission may authorize the provision of such service. For the  
 1022 purposes of this section, effective January 1, 1996,  
 1023 "alternative access vendor services" means the provision of  
 1024 private line service between an entity and facilities at another  
 1025 location, whether owned by the entity or an unaffiliated entity  
 1026 or access service between an end user and an interexchange  
 1027 carrier by other than a local exchange telecommunications  
 1028 company. For purposes of this chapter, "private line service"  
 1029 means any dedicated point-to-point or point-to-multipoint  
 1030 service for the transmission of any public telecommunications  
 1031 service.

1032 (b) No person shall provide alternative access vendor  
 1033 services without first obtaining a certificate from the  
 1034 commission. Any certificated alternative access vendor as of the  
 1035 date this act becomes a law wishing to provide alternative local  
 1036 exchange telecommunications service in addition to the services  
 1037 authorized in its certificate may do so, effective January 1,  
 1038 1996, upon furnishing written notice to the commission.

1039 Section 17. Subsection (1) of section 364.3376, Florida  
 1040 Statutes, is amended to read:

1041 364.3376 Operator services.--

1042 (1)(a) No person shall provide operator services as  
 1043 defined in s. 364.02 without first obtaining from the commission  
 1044 a certificate of public convenience and necessity as ~~either~~ an  
 1045 operator services provider ~~or an interexchange~~  
 1046 ~~telecommunications company.~~

1047 (b) The provisions of this section shall not apply to  
 1048 operator services provided by a local exchange  
 1049 telecommunications company or by an intrastate interexchange  
 1050 telecommunications company, except as required by the commission



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1051 in the public interest.

1052 Section 18. Subsection (1) of section 364.502, Florida  
 1053 Statutes, is amended to read:

1054 364.502 Video programming; capacity for public use.--

1055 (1) Each local exchange telecommunications company or  
 1056 competitive ~~alternative~~ local exchange telecommunications  
 1057 company which provides video programming shall, prior to  
 1058 providing such programming, file with the commission a  
 1059 designation of reserve capacity for public, educational, or  
 1060 governmental use. The commission shall review the filed  
 1061 designation to determine whether such designation ensures that  
 1062 public education and public information programming are  
 1063 adequately available to the customers of such telecommunications  
 1064 company. The commission shall consider the following factors in  
 1065 determining whether the filed designation complies with the  
 1066 requirements of this chapter:

1067 (a) Reservation and designation requirements provided by  
 1068 federal law, if any.

1069 (b) The level of demand for such programming in a given  
 1070 service area.

1071 (c) The barriers to providing such programming in the  
 1072 service area.

1073 (d) The cost and availability of such programming in the  
 1074 service area.

1075 (e) Other factors which the commission deems appropriate.

1076 Section 19. Paragraph (i) of subsection (3) of section  
 1077 365.172, Florida Statutes, is amended to read:

1078 365.172 Wireless emergency telephone number "E911."--

1079 (3) DEFINITIONS.--As used in this section and ss. 365.173  
 1080 and 365.174, the term:



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1081 (i) "Local exchange carrier" means a ~~an~~ "competitive  
 1082 ~~alternative~~ local exchange telecommunications company" or a  
 1083 "local exchange telecommunications company" as defined in s.  
 1084 364.02.

1085 Section 20. Subsection (6) of section 196.012, Florida  
 1086 Statutes, is amended to read:

1087 196.012 Definitions.--For the purpose of this chapter, the  
 1088 following terms are defined as follows, except where the context  
 1089 clearly indicates otherwise:

1090 (6) Governmental, municipal, or public purpose or function  
 1091 shall be deemed to be served or performed when the lessee under  
 1092 any leasehold interest created in property of the United States,  
 1093 the state or any of its political subdivisions, or any  
 1094 municipality, agency, special district, authority, or other  
 1095 public body corporate of the state is demonstrated to perform a  
 1096 function or serve a governmental purpose which could properly be  
 1097 performed or served by an appropriate governmental unit or which  
 1098 is demonstrated to perform a function or serve a purpose which  
 1099 would otherwise be a valid subject for the allocation of public  
 1100 funds. For purposes of the preceding sentence, an activity  
 1101 undertaken by a lessee which is permitted under the terms of its  
 1102 lease of real property designated as an aviation area on an  
 1103 airport layout plan which has been approved by the Federal  
 1104 Aviation Administration and which real property is used for the  
 1105 administration, operation, business offices and activities  
 1106 related specifically thereto in connection with the conduct of  
 1107 an aircraft full service fixed base operation which provides  
 1108 goods and services to the general aviation public in the  
 1109 promotion of air commerce shall be deemed an activity which  
 1110 serves a governmental, municipal, or public purpose or function.



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1111 Any activity undertaken by a lessee which is permitted under the  
 1112 terms of its lease of real property designated as a public  
 1113 airport as defined in s. 332.004(14) by municipalities,  
 1114 agencies, special districts, authorities, or other public bodies  
 1115 corporate and public bodies politic of the state, a spaceport as  
 1116 defined in s. 331.303(19), or which is located in a deepwater  
 1117 port identified in s. 403.021(9)(b) and owned by one of the  
 1118 foregoing governmental units, subject to a leasehold or other  
 1119 possessory interest of a nongovernmental lessee that is deemed  
 1120 to perform an aviation, airport, aerospace, maritime, or port  
 1121 purpose or operation shall be deemed an activity that serves a  
 1122 governmental, municipal, or public purpose. The use by a lessee,  
 1123 licensee, or management company of real property or a portion  
 1124 thereof as a convention center, visitor center, sports facility  
 1125 with permanent seating, concert hall, arena, stadium, park, or  
 1126 beach is deemed a use that serves a governmental, municipal, or  
 1127 public purpose or function when access to the property is open  
 1128 to the general public with or without a charge for admission. If  
 1129 property deeded to a municipality by the United States is  
 1130 subject to a requirement that the Federal Government, through a  
 1131 schedule established by the Secretary of the Interior, determine  
 1132 that the property is being maintained for public historic  
 1133 preservation, park, or recreational purposes and if those  
 1134 conditions are not met the property will revert back to the  
 1135 Federal Government, then such property shall be deemed to serve  
 1136 a municipal or public purpose. The term "governmental purpose"  
 1137 also includes a direct use of property on federal lands in  
 1138 connection with the Federal Government's Space Exploration  
 1139 Program or spaceport activities as defined in s. 212.02(22).  
 1140 Real property and tangible personal property owned by the



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1141 Federal Government or the Florida Space Authority and used for  
1142 defense and space exploration purposes or which is put to a use  
1143 in support thereof shall be deemed to perform an essential  
1144 national governmental purpose and shall be exempt. "Owned by the  
1145 lessee" as used in this chapter does not include personal  
1146 property, buildings, or other real property improvements used  
1147 for the administration, operation, business offices and  
1148 activities related specifically thereto in connection with the  
1149 conduct of an aircraft full service fixed based operation which  
1150 provides goods and services to the general aviation public in  
1151 the promotion of air commerce provided that the real property is  
1152 designated as an aviation area on an airport layout plan  
1153 approved by the Federal Aviation Administration. For purposes of  
1154 determination of "ownership," buildings and other real property  
1155 improvements which will revert to the airport authority or other  
1156 governmental unit upon expiration of the term of the lease shall  
1157 be deemed "owned" by the governmental unit and not the lessee.  
1158 Providing two-way telecommunications services to the public for  
1159 hire by the use of a telecommunications facility, as defined in  
1160 s. 364.02(14)(13), and for which a certificate is required under  
1161 chapter 364 does not constitute an exempt use for purposes of s.  
1162 196.199, unless the telecommunications services are provided by  
1163 the operator of a public-use airport, as defined in s. 332.004,  
1164 for the operator's provision of telecommunications services for  
1165 the airport or its tenants, concessionaires, or licensees, or  
1166 unless the telecommunications services are provided by a public  
1167 hospital. However, property that is being used to provide such  
1168 telecommunications services on or before October 1, 1997, shall  
1169 remain exempt, but such exemption expires October 1, 2004.

1170 Section 21. Paragraph (b) of subsection (1) of section



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1171 199.183, Florida Statutes, is amended to read:

1172 199.183 Taxpayers exempt from annual and nonrecurring  
 1173 taxes.--

1174 (1) Intangible personal property owned by this state or  
 1175 any of its political subdivisions or municipalities shall be  
 1176 exempt from taxation under this chapter. This exemption does not  
 1177 apply to:

1178 (b) Property related to the provision of two-way  
 1179 telecommunications services to the public for hire by the use of  
 1180 a telecommunications facility, as defined in s. 364.02~~(14)~~~~(13)~~,  
 1181 and for which a certificate is required under chapter 364, when  
 1182 such service is provided by any county, municipality, or other  
 1183 political subdivision of the state. Any immunity of any  
 1184 political subdivision of the state or other entity of local  
 1185 government from taxation of the property used to provide  
 1186 telecommunication services that is taxed as a result of this  
 1187 paragraph is hereby waived. However, intangible personal  
 1188 property related to the provision of such telecommunications  
 1189 services provided by the operator of a public-use airport, as  
 1190 defined in s. 332.004, for the operator's provision of  
 1191 telecommunications services for the airport or its tenants,  
 1192 concessionaires, or licensees, and intangible personal property  
 1193 related to the provision of such telecommunications services  
 1194 provided by a public hospital, are exempt from taxation under  
 1195 this chapter.

1196 Section 22. Subsection (6) of section 212.08, Florida  
 1197 Statutes, is amended to read:

1198 212.08 Sales, rental, use, consumption, distribution, and  
 1199 storage tax; specified exemptions.--The sale at retail, the  
 1200 rental, the use, the consumption, the distribution, and the





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1201 storage to be used or consumed in this state of the following  
 1202 are hereby specifically exempt from the tax imposed by this  
 1203 chapter.

1204 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are also  
 1205 exempt from the tax imposed by this chapter sales made to the  
 1206 United States Government, a state, or any county, municipality,  
 1207 or political subdivision of a state when payment is made  
 1208 directly to the dealer by the governmental entity. This  
 1209 exemption shall not inure to any transaction otherwise taxable  
 1210 under this chapter when payment is made by a government employee  
 1211 by any means, including, but not limited to, cash, check, or  
 1212 credit card when that employee is subsequently reimbursed by the  
 1213 governmental entity. This exemption does not include sales of  
 1214 tangible personal property made to contractors employed either  
 1215 directly or as agents of any such government or political  
 1216 subdivision thereof when such tangible personal property goes  
 1217 into or becomes a part of public works owned by such government  
 1218 or political subdivision. A determination whether a particular  
 1219 transaction is properly characterized as an exempt sale to a  
 1220 government entity or a taxable sale to a contractor shall be  
 1221 based on the substance of the transaction rather than the form  
 1222 in which the transaction is cast. The department shall adopt  
 1223 rules that give special consideration to factors that govern the  
 1224 status of the tangible personal property before its affixation  
 1225 to real property. In developing these rules, assumption of the  
 1226 risk of damage or loss is of paramount consideration in the  
 1227 determination. This exemption does not include sales, rental,  
 1228 use, consumption, or storage for use in any political  
 1229 subdivision or municipality in this state of machines and  
 1230 equipment and parts and accessories therefor used in the



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1231 generation, transmission, or distribution of electrical energy  
 1232 by systems owned and operated by a political subdivision in this  
 1233 state for transmission or distribution expansion. Likewise  
 1234 exempt are charges for services rendered by radio and television  
 1235 stations, including line charges, talent fees, or license fees  
 1236 and charges for films, videotapes, and transcriptions used in  
 1237 producing radio or television broadcasts. The exemption provided  
 1238 in this subsection does not include sales, rental, use,  
 1239 consumption, or storage for use in any political subdivision or  
 1240 municipality in this state of machines and equipment and parts  
 1241 and accessories therefor used in providing two-way  
 1242 telecommunications services to the public for hire by the use of  
 1243 a telecommunications facility, as defined in s. 364.02~~(14)~~(13),  
 1244 and for which a certificate is required under chapter 364, which  
 1245 facility is owned and operated by any county, municipality, or  
 1246 other political subdivision of the state. Any immunity of any  
 1247 political subdivision of the state or other entity of local  
 1248 government from taxation of the property used to provide  
 1249 telecommunication services that is taxed as a result of this  
 1250 section is hereby waived. However, the exemption provided in  
 1251 this subsection includes transactions taxable under this chapter  
 1252 which are for use by the operator of a public-use airport, as  
 1253 defined in s. 332.004, in providing such telecommunications  
 1254 services for the airport or its tenants, concessionaires, or  
 1255 licensees, or which are for use by a public hospital for the  
 1256 provision of such telecommunications services.

1257 Section 23. Subsection (8) of section 290.007, Florida  
 1258 Statutes, is amended to read:

1259 290.007 State incentives available in enterprise  
 1260 zones.--The following incentives are provided by the state to



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1261 encourage the revitalization of enterprise zones:

1262 (8) Notwithstanding any law to the contrary, the Public  
1263 Service Commission may allow public utilities and  
1264 telecommunications companies to grant discounts of up to 50  
1265 percent on tariffed rates for services to small businesses  
1266 located in an enterprise zone designated pursuant to s.  
1267 290.0065. Such discounts may be granted for a period not to  
1268 exceed 5 years. For purposes of this subsection, "public  
1269 utility" has the same meaning as in s. 366.02(1) and  
1270 "telecommunications company" has the same meaning as in s.  
1271 364.02(13)(~~12~~).

1272 Section 24. Subsection (3) of section 350.0605, Florida  
1273 Statutes, is amended to read:

1274 350.0605 Former commissioners and employees;  
1275 representation of clients before commission.--

1276 (3) For a period of 2 years following termination of  
1277 service on the commission, a former member may not accept  
1278 employment by or compensation from a business entity which,  
1279 directly or indirectly, owns or controls a public utility  
1280 regulated by the commission, from a public utility regulated by  
1281 the commission, from a business entity which, directly or  
1282 indirectly, is an affiliate or subsidiary of a public utility  
1283 regulated by the commission or is an actual business competitor  
1284 of a local exchange company or public utility regulated by the  
1285 commission and is otherwise exempt from regulation by the  
1286 commission under ss. 364.02(13)(~~12~~) and 366.02(1), or from a  
1287 business entity or trade association that has been a party to a  
1288 commission proceeding within the 2 years preceding the member's  
1289 termination of service on the commission. This subsection  
1290 applies only to members of the Florida Public Service Commission



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1291 who are appointed or reappointed after May 10, 1993.

1292 Section 25. Subsection (4) of section 364.602, Florida  
 1293 Statutes, is amended to read:

1294 364.602 Definitions.--For purposes of this part:

1295 (4) "Originating party" means any person, firm,  
 1296 corporation, or other entity, including a telecommunications  
 1297 company or a billing clearinghouse, that provides any  
 1298 telecommunications service or information service to a customer  
 1299 or bills a customer through a billing party, except the term  
 1300 "originating party" does not include any entity specifically  
 1301 exempted from the definition of "telecommunications company" as  
 1302 provided in s. 364.02(13)(~~12~~).

1303 Section 26. Subsection (5) of section 489.103, Florida  
 1304 Statutes, is amended to read:

1305 489.103 Exemptions.--This part does not apply to:

1306 (5) Public utilities, including special gas districts as  
 1307 defined in chapter 189, telecommunications companies as defined  
 1308 in s. 364.02(13)(~~12~~), and natural gas transmission companies as  
 1309 defined in s. 368.103(4), on construction, maintenance, and  
 1310 development work performed by their employees, which work,  
 1311 including, but not limited to, work on bridges, roads, streets,  
 1312 highways, or railroads, is incidental to their business. The  
 1313 board shall define, by rule, the term "incidental to their  
 1314 business" for purposes of this subsection.

1315 Section 27. This act shall take effect upon becoming a  
 1316 law.

1317