

By the Committee on Communication and Public Utilities; and
Senator Haridopolos

319-2242-03

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

1 authority to address universal service support
2 mechanism for small local exchange
3 telecommunications companies different from the
4 interim mechanism; amending s. 364.0361, F.S.;
5 providing exclusivity for certain regulations;
6 amending s. 364.051, F.S.; conforming
7 terminology; providing circumstances under
8 which certain telecommunications companies may
9 elect alternative regulations; providing an
10 exception; prohibiting an increase in certain
11 regulations on competitive local exchange
12 telecommunications companies; amending s.
13 364.052, F.S.; conforming terminology; amending
14 s. 364.058, F.S.; providing for an expedited
15 process to facilitate quick resolution of
16 disputes between telecommunications companies;
17 providing rulemaking authority; creating s.
18 364.059, F.S.; providing procedures for staying
19 election of local exchange telecommunications
20 companies to be subject to alternative
21 regulations; requiring the Public Service
22 Commission to provide benchmarks and criteria
23 for granting stays; providing rulemaking
24 authority; amending s. 364.10, F.S.; requiring
25 certain local exchange telecommunications
26 companies to provide Lifeline services to
27 certain persons; providing for eligibility
28 determinations by the Public Counsel for
29 receipt of such services; prohibiting rate
30 increases for basic local telecommunications
31 services provided to such eligible persons;

1 requiring distribution of certain materials;
2 requiring annual reports; amending ss. 364.16,
3 364.161, and 364.162, F.S.; conforming
4 terminology; amending s. 364.163, F.S.;
5 deleting obsolete language; changing period in
6 which intrastate access rates are capped;
7 removing limitations on certain rate increases;
8 eliminating certain fees; providing presumption
9 of validity for certain tariff changes made by
10 intrastate interexchange telecommunications
11 companies; creating s. 364.164, F.S.;
12 authorizing local exchange telecommunications
13 companies to petition the Public Service
14 Commission for reduction of intrastate network
15 access rates under certain circumstances;
16 requiring revenue neutrality; providing
17 criteria for the commission to consider;
18 amending s. 364.337, F.S.; conforming
19 terminology; amending s. 364.3376, F.S.;
20 eliminating the requirement that intrastate
21 interexchange telecommunications companies
22 obtain a certificate of public convenience
23 prior to providing operator services; amending
24 ss. 364.502 and 365.172, F.S.; conforming
25 terminology; amending ss. 196.012, 199.183,
26 212.08, 290.007, 350.0605, 364.602, and
27 489.103, F.S.; correcting cross-references to
28 s. 364.02, F.S.; providing an effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. This act may be cited as the
2 "Tele-Competition Innovation and Infrastructure Enhancement
3 Act."

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

6 364.01 Powers of commission, legislative intent.--

7 (3) The Legislature finds that the competitive
8 provision of telecommunications services, including local
9 exchange telecommunications service, is in the public interest
10 and will provide customers with freedom of choice, encourage
11 the introduction of new telecommunications service, encourage
12 technological innovation, and encourage investment in
13 telecommunications infrastructure. The Legislature further
14 finds that the transition from the monopoly provision of local
15 exchange service to the competitive provision thereof will
16 require appropriate regulatory oversight to protect consumers
17 and provide for the development of fair and effective
18 competition, but nothing in this chapter shall limit the
19 availability to any party of any remedy under state or federal
20 antitrust laws. The Legislature further finds that changes in
21 regulations allowing increased competition in
22 telecommunications services could provide the occasion for
23 increases in the telecommunications workforce; therefore, it
24 is in the public interest that competition in
25 telecommunications services lead to a situation that enhances
26 the high-technological skills and the economic status of the
27 telecommunications workforce. The Legislature further finds
28 that the provision of voice-over-internet protocol (VOIP) free
29 of unnecessary regulation, regardless of the provider, is in
30 the public interest.

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1 Section 3. Section 364.02, Florida Statutes, is
2 amended to read:

3 364.02 Definitions.--As used in this chapter:

4 ~~(1) "Alternative local exchange telecommunications~~
5 ~~company" means any company certificated by the commission to~~
6 ~~provide local exchange telecommunications services in this~~
7 ~~state on or after July 1, 1995.~~

8 (1)~~(2)~~ "Basic local telecommunications service" means
9 voice-grade, flat-rate residential, and flat-rate single-line
10 business local exchange services which provide dial tone,
11 local usage necessary to place unlimited calls within a local
12 exchange area, dual tone multifrequency dialing, and access to
13 the following: emergency services such as "911," all locally
14 available interexchange companies, directory assistance,
15 operator services, relay services, and an alphabetical
16 directory listing. For a local exchange telecommunications
17 company, such term shall include any extended area service
18 routes, and extended calling service in existence or ordered
19 by the commission on or before July 1, 1995.

20 (2)~~(3)~~ "Commercial mobile radio service provider"
21 means a commercial mobile radio service provider as defined by
22 and pursuant to 47 U.S.C. ss. 153(n) and 332(d).

23 (3)~~(4)~~ "Commission" means the Florida Public Service
24 Commission.

25 (4) "Competitive local exchange telecommunications
26 company" means any company certificated by the commission to
27 provide local exchange telecommunications services in this
28 state on or after July 1, 1995.

29 (5) "Corporation" includes a corporation, company,
30 association, or joint stock association.

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1 (6) "Intrastate interexchange telecommunications
2 company" means any entity that provides intrastate
3 interexchange telecommunications services.

4 ~~(7)(6)~~ "Local exchange telecommunications company"
5 means any company certificated by the commission to provide
6 local exchange telecommunications service in this state on or
7 before June 30, 1995.

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

11 ~~(9)(8)~~ "Nonbasic service" means any telecommunications
12 service provided by a local exchange telecommunications
13 company other than a basic local telecommunications service, a
14 local interconnection arrangement described in s. 364.16, or a
15 network access service described in s. 364.163.

16 ~~(10)(9)~~ "Operator service" includes, but is not
17 limited to, billing or completion of third-party,
18 person-to-person, collect, or calling card or credit card
19 calls through the use of a live operator or automated
20 equipment.

21 ~~(11)(10)~~ "Operator service provider" means a person
22 who furnishes operator service through a call aggregator.

23 ~~(12)(11)~~ "Service" is to be construed in its broadest
24 and most inclusive sense. The term "service" does not include
25 voice-over-internet protocol service for purposes of
26 regulation by the commission. Nothing herein shall affect the
27 rights and obligations of any entity related to the payment of
28 switched network access rates or other intercarrier
29 compensation, if any, related to voice-over-internet protocol
30 service.

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1 ~~(12)~~ (13) "Telecommunications company" includes every
2 corporation, partnership, and person and their lessees,
3 trustees, or receivers appointed by any court whatsoever, and
4 every political subdivision in the state, offering two-way
5 telecommunications service to the public for hire within this
6 state by the use of a telecommunications facility. The term
7 "telecommunications company" does not include:

8 (a) An entity which provides a telecommunications
9 facility exclusively to a certificated telecommunications
10 company;

11 (b) An entity which provides a telecommunications
12 facility exclusively to a company which is excluded from the
13 definition of a telecommunications company under this
14 subsection;

15 (c) A commercial mobile radio service provider;

16 (d) A facsimile transmission service;

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

19 (f) A cable television company providing cable service
20 as defined in 47 U.S.C. s. 522; ~~or~~.

21 (g) An intrastate interexchange telecommunications
22 company.

23
24 However, each commercial mobile radio service provider and
25 each intrastate interexchange telecommunications company shall
26 continue to be liable for any taxes imposed pursuant to
27 chapters 203 and 212 and any fees assessed pursuant to ss. s.
28 364.025 and 364.336. Each intrastate interexchange
29 telecommunications company shall continue to be subject to ss.
30 364.04, 364.10(3)(a) and (d), 364.015, 364.285, 364.163,
31 364.501, 364.603, and 364.604, shall provide the commission

1 with such current information as the commission deems
2 necessary to contact and communicate with the company, shall
3 continue to pay intrastate switched network access rates or
4 other intercarrier compensation to the local exchange
5 telecommunications company or the competitive local exchange
6 telecommunications company for the origination and termination
7 of interexchange telecommunications service, and shall reduce
8 its intrastate long distance toll rates in accordance with s.
9 364.163(2).

10 (14)~~(13)~~ "Telecommunications facility" includes real
11 estate, easements, apparatus, property, and routes used and
12 operated to provide two-way telecommunications service to the
13 public for hire within this state.

14 Section 4. Section 364.025, Florida Statutes, is
15 amended to read:

16 364.025 Universal service.--

17 (1) For the purposes of this section, the term
18 "universal service" means an evolving level of access to
19 telecommunications services that, taking into account advances
20 in technologies, services, and market demand for essential
21 services, the commission determines should be provided at
22 just, reasonable, and affordable rates to customers, including
23 those in rural, economically disadvantaged, and high-cost
24 areas. It is the intent of the Legislature that universal
25 service objectives be maintained after the local exchange
26 market is opened to competitively provided services. It is
27 also the intent of the Legislature that during this transition
28 period the ubiquitous nature of the local exchange
29 telecommunications companies be used to satisfy these
30 objectives. Until January 1, 2009 ~~For a period of 8 years~~
31 ~~after January 1, 1996~~, each local exchange telecommunications

1 company shall be required to furnish basic local exchange
2 telecommunications service within a reasonable time period to
3 any person requesting such service within the company's
4 service territory.

5 (2) The Legislature finds that each telecommunications
6 company should contribute its fair share to the support of the
7 universal service objectives and carrier-of-last-resort
8 obligations. For a transitional period not to exceed January
9 1, 2009 ~~2004~~, the interim mechanism for maintaining universal
10 service objectives and funding carrier-of-last-resort
11 obligations shall be established by the commission, pending
12 the implementation of a permanent mechanism. The interim
13 mechanism shall be applied in a manner that ensures that each
14 competitive ~~alternative~~ local exchange telecommunications
15 company contributes its fair share to the support of universal
16 service and carrier-of-last-resort obligations. The interim
17 mechanism applied to each competitive ~~alternative~~ local
18 exchange telecommunications company shall reflect a fair share
19 of the local exchange telecommunications company's recovery of
20 investments made in fulfilling its carrier-of-last-resort
21 obligations, and the maintenance of universal service
22 objectives. The commission shall ensure that the interim
23 mechanism does not impede the development of residential
24 consumer choice or create an unreasonable barrier to
25 competition. In reaching its determination, the commission
26 shall not inquire into or consider any factor that is
27 inconsistent with s. 364.051(1)(c). The costs and expenses of
28 any government program or project required in part II of this
29 chapter shall not be recovered under this section.

30 (3) If ~~in the event~~ any party, prior to January 1,
31 2009 ~~2004~~, believes that circumstances have changed

1 substantially to warrant a change in the interim mechanism,
2 that party may petition the commission for a change, but the
3 commission shall grant such petition only after an opportunity
4 for a hearing and a compelling showing of changed
5 circumstances, including that the provider's customer
6 population includes as many residential as business customers.
7 The commission shall act on any such petition within 120 days.

8 (4)(a) Prior to January 1, 2009 ~~2004~~, the Legislature
9 shall establish a permanent universal service mechanism upon
10 the effective date of which any interim recovery mechanism for
11 universal service objectives or carrier-of-last-resort
12 obligations imposed on competitive ~~alternative~~ local exchange
13 telecommunications companies shall terminate.

14 (b) To assist the Legislature in establishing a
15 permanent universal service mechanism, the commission, by
16 February 15, 1999, shall determine and report to the President
17 of the Senate and the Speaker of the House of Representatives
18 the total forward-looking cost, based upon the most recent
19 commercially available technology and equipment and generally
20 accepted design and placement principles, of providing basic
21 local telecommunications service on a basis no greater than a
22 wire center basis using a cost proxy model to be selected by
23 the commission after notice and opportunity for hearing.

24 (c) In determining the cost of providing basic local
25 telecommunications service for small local exchange
26 telecommunications companies, which serve less than 100,000
27 access lines, the commission shall not be required to use the
28 cost proxy model selected pursuant to paragraph (b) until a
29 mechanism is implemented by the Federal Government for small
30 companies, but no sooner than January 1, 2001. The commission
31 shall calculate a small local exchange telecommunications

1 company's cost of providing basic local telecommunications
2 services based on one of the following options:
3 1. A different proxy model; or
4 2. A fully distributed allocation of embedded costs,
5 identifying high-cost areas within the local exchange area the
6 company serves and including all embedded investments and
7 expenses incurred by the company in the provision of universal
8 service. Such calculations may be made using fully distributed
9 costs consistent with 47 C.F.R. parts 32, 36, and 64. The
10 geographic basis for the calculations shall be no smaller than
11 a census block group.

12 (5) After January 1, 2001, a competitive ~~an~~
13 ~~alternative~~ local exchange telecommunications company may
14 petition the commission to become the universal service
15 provider and carrier of last resort in areas requested to be
16 served by that competitive ~~alternative~~ local exchange
17 telecommunications company. Upon petition of a competitive ~~an~~
18 ~~alternative~~ local exchange telecommunications company, the
19 commission shall have 120 days to vote on granting in whole or
20 in part or denying the petition of the competitive ~~alternative~~
21 local exchange company. The commission may establish the
22 competitive ~~alternative~~ local exchange telecommunications
23 company as the universal service provider and carrier of last
24 resort, provided that the commission first determines that the
25 competitive ~~alternative~~ local exchange telecommunications
26 company will provide high-quality, reliable service. In the
27 order establishing the competitive ~~alternative~~ local exchange
28 telecommunications company as the universal service provider
29 and carrier of last resort, the commission shall set the
30 period of time in which such company must meet those

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1 objectives and obligations ~~and shall set up any mechanism~~
2 ~~needed to aid such company in carrying out these duties.~~

3 (6) The Commission, by February 1, 2004, shall
4 determine and report to the President of the Senate and the
5 Speaker of the House of Representatives whether the commission
6 has the necessary authority, pursuant to s.364.025 (3), to
7 address whether a local exchange telecommunications company
8 with less than 100,000 access lines in service is entitled to
9 a universal service support mechanism different from the
10 interim mechanism in place, on the grounds that circumstance
11 have changed, or are changing, substantially to warrant a
12 change in the interim mechanism. If the commission finds that
13 it does not have such authority, the commission shall
14 recommend such statutory changes to s.364.025 (3) to provide
15 it with such authority.

16 Section 5. Section 364.0361, Florida Statutes, is
17 amended to read:

18 364.0361 Local government authority; nondiscriminatory
19 exercise.--A local government shall treat each
20 telecommunications company in a nondiscriminatory manner when
21 exercising its authority to grant franchises to a
22 telecommunications company or to otherwise establish
23 conditions or compensation for the use of rights-of-way or
24 other public property by a telecommunications company. A local
25 government may not directly or indirectly regulate the terms
26 and conditions, including, but not limited to, the operating
27 systems, qualifications, services, service quality, service
28 territory, and prices, applicable to or in connection with the
29 provision of any broadband or information service. This
30 section does not relieve a provider from any obligations under
31 s. 166.046 or s. 337.401.

1 Section 6. Paragraph (a) of subsection (1) and
2 subsection (3) of section 364.051, Florida Statutes, are
3 amended, and subsections (6), (7), and (8) are added to that
4 section, to read:

5 364.051 Price regulation.--

6 (1) SCHEDULE.--Notwithstanding any other provisions of
7 this chapter, the following local exchange telecommunications
8 companies shall become subject to the price regulation
9 described in this section on the following dates:

10 (a) For a local exchange telecommunications company
11 with 100,000 or more access lines in service as of July 1,
12 1995, such company may file with the commission a notice of
13 election to be under price regulation effective January 1,
14 1996, or when a competitive ~~an alternative~~ local exchange
15 telecommunications company is certificated to provide local
16 exchange telecommunications services in its service territory,
17 whichever is later.

18 (3) If ~~in the event that~~ it is determined that the
19 level of competition justifies the elimination of price caps
20 in an exchange served by a local exchange telecommunications
21 company with less than 3 million basic local
22 telecommunications service access lines in service, or at the
23 end of 5 years for any local exchange telecommunications
24 company, the local exchange telecommunications company may
25 thereafter on 30 days' notice adjust its basic service
26 revenues ~~prices~~ once in any 12-month period in an amount not
27 to exceed the change in inflation less 1 percent. Inflation
28 shall be measured by the changes in the Gross Domestic Product
29 Fixed 1987 Weights Price Index, or successor fixed weight
30 price index, published in the Survey of Current Business or a
31 publication, by the United States Department of Commerce. In

1 the event any local exchange telecommunications company, after
2 January 1, 2001, believes that the level of competition
3 justifies the elimination of any form of price regulation, the
4 company may petition the Legislature.

5 (6) After a local exchange telecommunications company
6 that has more than 1 million access lines in service has
7 reduced its intrastate switched network access rates to
8 parity, as defined in s. 364.164(5), the local exchange
9 telecommunications company's basic local telecommunications
10 service may, at the company's election, be subject to the same
11 regulatory treatment as its nonbasic services. The company's
12 retail service quality requirements that are not already equal
13 to the service quality requirements imposed upon the
14 competitive local exchange telecommunications companies shall
15 thereafter be no greater than those imposed upon competitive
16 local exchange telecommunications companies unless the
17 commission, within 120 days after the company's election,
18 determines otherwise. In such event, the commission may grant
19 some reductions in service quality requirements and in some or
20 all of the company's local calling areas. The commission may
21 not impose retail service quality requirements on competitive
22 local exchange telecommunications companies greater than those
23 existing on January 1, 2003.

24 (7) If a local exchange telecommunications company
25 elects, pursuant to subsection (6), to subject its retail
26 basic local telecommunications services to the same regulatory
27 treatment as its nonbasic services, the local exchange
28 telecommunications company may petition the commission for
29 regulatory treatment of its retail services at a level no
30 greater than that imposed by the commission upon competitive

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1 local exchange telecommunications companies. The local
2 exchange telecommunications company shall:

3 (a) Show that granting the petition is in the public
4 interest;

5 (b) Reduce its intrastate switched network access
6 rates to its local reciprocal interconnection rate upon the
7 grant of the petition.

8
9 The commission shall act upon such a petition within 9 months
10 after its filing with the commission. In making its
11 determination to either grant or deny the petition, the
12 commission shall determine the extent to which the level of
13 competition faced by the local exchange telecommunications
14 company permits and will continue to permit the company to
15 have its retail services regulated no differently than the
16 competitive local exchange telecommunications companies are
17 then being regulated. The commission may not increase the
18 level of regulation for competitive local exchange
19 telecommunications companies to a level greater than that
20 which exists on the date the local exchange telecommunications
21 company files its petition.

22 (8) The provisions described in s. 364.051(6) and (7)
23 shall apply to any local exchange telecommunications company
24 with 1 million or less lines in service that has reduced its
25 intrastate switched network access rates to a level equal to
26 the company's interstate switched network access rates in
27 effect on January 1, 2003.

28 Section 7. Subsections (2), (3), and (4) of section
29 364.052, Florida Statutes, are amended to read:

30 364.052 Regulatory methods for small local exchange
31 telecommunications companies.--

1 (2) A small local exchange telecommunications company
2 shall remain under rate base, rate of return regulation until
3 the company elects to become subject to s. 364.051, or January
4 1, 2001, whichever occurs first. A company subject to this
5 section, electing to be regulated pursuant to s. 364.051, will
6 have any overearnings attributable to a period prior to the
7 date on which the company makes the election subject to refund
8 or other disposition by the commission. Small local exchange
9 telecommunications companies not electing the price regulation
10 provided for under s. 364.051 shall also be regulated pursuant
11 to ss. 364.03, 364.035(1) and (2), 364.05, and 364.055 and
12 other provisions necessary for rate base, rate of return
13 regulation. If a small local exchange telecommunications
14 company has not elected to be regulated under s. 364.051, by
15 January 1, 2001, the company shall remain under rate base,
16 rate of return regulation until such time as a certificated
17 competitive ~~alternative~~ local exchange company provides basic
18 local telecommunications service in the company's territory.
19 At such time, the small local exchange telecommunications
20 company shall be subject to s. 364.051.

21 (a) The commission shall establish, by rule, ranges of
22 basic factors for lives and salvage values to be used in
23 developing depreciation rates for companies subject to this
24 section. Companies shall have the option of using basic
25 factors within the established ranges or of filing
26 depreciation studies.

27 (b) The commission shall adopt, by rule, streamlined
28 procedures for regulating companies subject to this section.
29 These procedures shall minimize the burdens of regulation with
30 regard to audits, investigations, service standards, cost
31 studies, reports, and other matters, and the commission shall

1 establish, by rule, only those procedures that are
2 cost-justified and are in the public interest so that
3 universal service may be promoted. Upon petition filed in
4 this rulemaking proceeding, the commission shall review and
5 may approve any regulations unique to the specific
6 circumstances of a company subject to this section.

7 (3) A company subject to this section may at any time
8 after January 1, 1996, elect to be regulated pursuant to s.
9 364.051. If such a company so elects or provides cable
10 television programming services directly or as video dial tone
11 applications authorized under 47 U.S.C. s. 214, except as
12 provided for in compliance with part II of this chapter, a
13 certificated competitive ~~alternative~~ local exchange company
14 may provide local exchange telecommunications services within
15 the territory of the electing company.

16 (4) Any competitive ~~alternative~~ local exchange
17 telecommunications company competing within the territory of
18 any small local exchange telecommunications company must do so
19 on an exchange-wide basis for the provision of flat-rated,
20 switched residential and business local exchange
21 telecommunications services in all exchanges in which they
22 elect to serve, unless the commission determines otherwise.
23 The competitive ~~alternative~~ local exchange telecommunications
24 company may petition and the commission has the authority to
25 determine that it is in the public interest for a competitive
26 ~~an alternative~~ local exchange telecommunications company to
27 service a geographic territory that is less than an entire
28 exchange.

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

31 364.058 Limited proceedings.--

1 (3) The commission shall implement an expedited
2 process to facilitate the quick resolution of disputes between
3 telecommunications companies. The process implemented by the
4 commission shall, to the greatest extent feasible, minimize
5 the time necessary to reach a decision on a dispute. The
6 commission may limit the use of the expedited process based on
7 the number of parties, the number of issues, or the complexity
8 of the issues. For any proceeding conducted pursuant to the
9 expedited process, the commission shall make its determination
10 within 120 days after a petition is filed or a motion is made.
11 The commission shall adopt rules to implement this subsection.

12 Section 9. Section 364.059, Florida Statutes, is
13 created to read:

14 364.059 Procedures for seeking stay; benchmark;
15 criteria.--

16 (1) If a local exchange telecommunications company has
17 elected, pursuant to s. 364.051(6), to have its basic local
18 telecommunications services treated the same as its nonbasic
19 services, the following procedures shall be available:

20 (a) Any petition filed by a substantially interested
21 party against a local exchange telecommunications company
22 seeking a stay of the effective date of a price reduction for
23 a basic local telecommunications service, alleging an
24 anticompetitive price reduction pursuant to s. 364.051(5), s.
25 364.08, s. 364.09, s. 364.10, or s. 364.3381, shall be
26 resolved by the commission pursuant to this section and by an
27 order issued within 45 days after the date the petition is
28 filed.

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

3 (c) This section does not prevent the local exchange
4 telecommunications company from raising any affirmative
5 defenses provided by law.

6 (d) A stay may not be granted until the commission has
7 voted on the petition after an opportunity for oral argument.

8 (e) If the commission grants a stay, the stay may not
9 exceed 45 days, and the commission shall make a determination
10 on the merits within the 45-day period, unless the commission
11 extends this time period, not to exceed 15 days, based on a
12 delay in the availability of relevant cost studies and
13 supporting documents.

14 (f) If the commission denies a stay, this section does
15 not prevent the petitioner from filing allegations of
16 anticompetitive price reductions as otherwise provided by law.

17 (g) The petitioner shall have the burden of proof that
18 a statutory violation has occurred, but the commission and the
19 petitioner shall have access, pursuant to s. 364.183, to the
20 local exchange telecommunications company's relevant cost
21 studies and supporting documents.

22 (h) The commission shall reject any petition within 15
23 days after filing if the local exchange telecommunications
24 company challenges the petition and the commission determines
25 that the petition on its face alleges the same violations and
26 the same facts that have previously been resolved against the
27 petitioner.

28 (2) For purposes of carrying out the procedures set
29 forth in subsection (1), the commission shall establish an
30 objective benchmark, such as a price or cost floor, by which
31 the commission may determine whether a requested stay of a

1 basic local telecommunications service price reduction is
2 warranted. Such a benchmark must be based upon generally
3 accepted economic costing and pricing principles and judicial
4 or regulatory costing and pricing precedent. The commission
5 shall also establish the criteria for determining on the
6 merits whether the basic local telecommunications service
7 price reduction is in fact anticompetitive. Such criteria must
8 be based upon generally accepted economic competitive costing
9 and pricing principles and judicial or regulatory precedent
10 for detecting the presence of anticompetitive pricing.
11 However, the commission may not establish benchmarks or
12 criteria that are inconsistent with or interfere with the
13 competitive pricing conduct permitted by existing law. The
14 commission shall establish the benchmark and criteria by rule,
15 which rule adoption proceeding shall commence no earlier than
16 January 1, 2005, and a final order shall issue within 120 days
17 after commencement. Such benchmarks and criteria must be
18 available when subsection (1) becomes effective. If s.
19 364.164(8) becomes operative, the commission shall immediately
20 commence establishment of the benchmark and criteria required
21 for the procedures set forth in subsection (1) and this
22 subsection, but this section does not prevent or delay a local
23 exchange telecommunications company from making and
24 implementing the election provided for in s. 364.051(6).

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

27 364.10 Undue advantage to person or locality
28 prohibited; exception.--

29 (3)(a) Effective September 1, 2003, any local exchange
30 telecommunications company authorized by the commission to
31 reduce its switched network access rate pursuant to s. 364.164

1 shall have tariffed and shall provide Lifeline service to any
2 otherwise eligible customer or potential customer who meets an
3 income eligibility test at 125 percent or less of the federal
4 poverty income guidelines for Lifeline customers. Such a test
5 for eligibility must augment, rather than replace, the
6 eligibility standards established by federal law and based on
7 participation in certain low-income assistance programs. Each
8 intrastate interexchange telecommunications company shall,
9 effective September 1, 2003, file a tariff providing at a
10 minimum the intrastate interexchange telecommunications
11 carrier's current Lifeline benefits and exemptions to Lifeline
12 customers who meet the income eligibility test set forth in
13 this subsection. The Office of Public Counsel shall certify
14 and maintain claims submitted by a customer for eligibility
15 under the income test authorized by this subsection.

16 (b) Each local exchange telecommunications company
17 subject to this subsection shall provide to each state and
18 federal agency providing benefits to persons eligible for
19 Lifeline service applications, brochures, pamphlets, or other
20 materials that inform such persons of their eligibility for
21 Lifeline, and each state agency providing such benefits shall
22 furnish the materials to affected persons at the time they
23 apply for benefits.

24 (c) Any local exchange telecommunications company
25 customer receiving Lifeline benefits shall not be subject to
26 any residential basic local telecommunications service rate
27 increases authorized by s. 364.164 until the local exchange
28 telecommunications company reaches parity as defined in s.
29 364.164(5) or until the customer no longer qualifies for the
30 Lifeline benefits established by this section or s. 364.105,
31

1 or unless otherwise determined by the commission upon petition
2 by a local exchange telecommunications company.

3 (d) By December 31, 2003, each state agency that
4 provides benefits to persons eligible for Lifeline service
5 shall undertake, in cooperation with the Department of
6 Children and Family Services, the commission, and
7 telecommunications companies providing Lifeline services, the
8 development of procedures to promote Lifeline participation.

9 (e) The commission shall report to the Governor, the
10 President of the Senate, and the Speaker of the House of
11 Representatives by December 31 each year on the number of
12 customers who are subscribing to Lifeline service and the
13 effectiveness of any procedures to promote participation.

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

17 364.16 Connection of lines and transfers; local
18 interconnection; telephone number portability.--

19 (2) Each competitive ~~alternative~~ local exchange
20 telecommunications company shall provide access to, and
21 interconnection with, its telecommunications services to any
22 other provider of local exchange telecommunications services
23 requesting such access and interconnection at
24 nondiscriminatory prices, terms, and conditions. If the
25 parties are unable to negotiate mutually acceptable prices,
26 terms, and conditions after 60 days, either party may petition
27 the commission and the commission shall have 120 days to make
28 a determination after proceeding as required by s. 364.162(2)
29 pertaining to interconnection services.

30 (3) Each local exchange telecommunications company
31 shall provide access to, and interconnection with, its

1 telecommunications facilities to any other provider of local
2 exchange telecommunications services requesting such access
3 and interconnection at nondiscriminatory prices, rates, terms,
4 and conditions established by the procedures set forth in s.
5 364.162.

6 (a) A ~~No~~ local exchange telecommunications company or
7 competitive alternative local exchange telecommunications
8 company may not ~~shall~~ knowingly deliver traffic, for which
9 terminating access service charges would otherwise apply,
10 through a local interconnection arrangement without paying the
11 appropriate charges for such terminating access service.

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

20 Section 12. Subsections (3) and (4) of section
21 364.161, Florida Statutes, are amended to read:

22 364.161 Unbundling and resale.--

23 (3) Only after a competitive ~~an alternative~~ local
24 exchange telecommunications company has been determined to be
25 a carrier of last resort shall such company, upon request by
26 another telecommunications provider, be required, for purposes
27 of resale, to unbundle its local exchange services, network
28 features, functions and capabilities, including its local
29 loop, to the extent such unbundling is technically and
30 economically feasible. The parties shall negotiate the terms,
31 conditions, and prices of any feasible unbundling request. If

1 the parties cannot reach a satisfactory resolution within 60
2 days, either party may petition the commission to arbitrate
3 the dispute and the commission shall make a determination
4 within 120 days. The prices shall not be below cost.

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

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

17 364.162 Negotiated prices for interconnection and for
18 the resale of services and facilities; commission rate
19 setting.--

20 (1) A competitive ~~An alternative~~ local exchange
21 telecommunications company shall have 60 days from the date it
22 is certificated to negotiate with a local exchange
23 telecommunications company mutually acceptable prices, terms,
24 and conditions of interconnection and for the resale of
25 services and facilities. If a negotiated price is not
26 established after 60 days, either party may petition the
27 commission to establish nondiscriminatory rates, terms, and
28 conditions of interconnection and for the resale of services
29 and facilities. The commission shall have 120 days to make a
30 determination after proceeding as required by subsection (2).
31 Whether set by negotiation or by the commission,

1 interconnection and resale prices, rates, terms, and
2 conditions shall be filed with the commission before their
3 effective date. The commission shall have the authority to
4 arbitrate any dispute regarding interpretation of
5 interconnection or resale prices and terms and conditions.

6 Section 14. Section 364.163, Florida Statutes, is
7 amended to read:

8 364.163 Network access services.--For purposes of this
9 section, the term "network access service" is defined as any
10 service provided by a local exchange telecommunications
11 company to a telecommunications company certificated under
12 this chapter or licensed by the Federal Communications
13 Commission to access the local exchange telecommunications
14 network, excluding the local interconnection arrangements in
15 s. 364.16 and the resale arrangements in s. 364.161. Each
16 local exchange telecommunications company subject to s.
17 364.051 shall maintain tariffs with the commission containing
18 the terms, conditions, and rates for each of its network
19 access services.

20 ~~(1) Effective January 1, 1999, the rates for switched~~
21 ~~network access services of each company subject to this~~
22 ~~section shall be capped at the rates in effect on January 1,~~
23 ~~1999, and shall remain capped until January 1, 2001. Upon the~~
24 ~~date of filing its election with the commission, the network~~
25 ~~access service rates of a company that elects to become~~
26 ~~subject to this section shall be capped at the rates in effect~~
27 ~~on that date and shall remain capped for 5 years.~~

28 (1)(2) After the termination of the caps imposed on
29 rates by subsection (1) and after a local exchange
30 telecommunications company's intrastate switched network
31 access rates are reduced to or below each parity, as defined

1 in s. 364.164(5), the company's intrastate switched network
2 access rates shall be, and shall remain, capped for 3 years
3 ~~with its interstate switched access rates, a company subject~~
4 ~~to this section may, on 30 days' notice, annually adjust any~~
5 ~~specific network access service rate in an amount not to~~
6 ~~exceed the cumulative change in inflation experienced after~~
7 ~~the date of the last adjustment, provided, however, that no~~
8 ~~such adjustment shall ever exceed 3 percent annually of the~~
9 ~~then-current prices. Inflation shall be measured by the~~
10 ~~changes in Gross Domestic Product Fixed 1987 Weights Price~~
11 ~~Index, or successor fixed weight price index, published in the~~
12 ~~Survey of Current Business, or successor publication, by the~~
13 ~~United States Department of Commerce.~~

14 ~~(3) After the termination of the caps imposed on rates~~
15 ~~by subsection (1), a company subject to this section may, at~~
16 ~~any time, petition the commission for a network access service~~
17 ~~rate change to recover the cost of governmentally mandated~~
18 ~~projects or programs or an increase in federal or state income~~
19 ~~tax incurred after that date. The costs and expenses of the~~
20 ~~government program or project required in part II of this~~
21 ~~chapter shall not be recovered under this subsection unless~~
22 ~~such costs and expenses are incurred in the absence of a bid~~
23 ~~and subject to carrier of last resort obligations as provided~~
24 ~~for in part II of this chapter. With respect to~~
25 ~~governmentally mandated projects and programs, such petition~~
26 ~~shall be acted upon no later than 90 days after the date of~~
27 ~~filing. A company subject to this section shall show the~~
28 ~~commission that the cost of a project or program is not~~
29 ~~recoverable either from the government mandating the project~~
30 ~~or program or from the beneficiaries of the project or program~~
31 ~~through user fees or other new revenue sources from the~~

1 ~~project or program, and to the extent that cost decreases~~
2 ~~resulting from the project or program are reflected as an~~
3 ~~offset to cost increases. A company subject to this section~~
4 ~~shall decrease its network access rates by amounts that~~
5 ~~reflect any federal or state income tax reduction. Nothing~~
6 ~~contained in this section shall allow any revisions in the~~
7 ~~rates, terms, and conditions for commercial mobile radio~~
8 ~~service access, which revisions are inconsistent with the~~
9 ~~requirements or methodologies of the Federal Communications~~
10 ~~Commission.~~

11 ~~(4) A company subject to this section may choose to~~
12 ~~implement all or a portion of a rate increase allowed for~~
13 ~~network access service by subsections (1), (2), and (3).~~
14 ~~Notwithstanding subsections (1), (2), and (3), a company~~
15 ~~subject to this section may choose to decrease network service~~
16 ~~rates at any time, and decreased rates shall become effective~~
17 ~~upon 7 days' notice.~~

18 ~~(5) Company-proposed changes to the terms and~~
19 ~~conditions for existing network access services in accordance~~
20 ~~with subsections (1), (2), (3), and (4) shall be presumed~~
21 ~~valid and become effective upon 15 days' notice.~~
22 ~~Company-proposed rate reductions shall become effective upon 7~~
23 ~~days' notice. Rate increases made by the local exchange~~
24 ~~telecommunications company shall be presumed valid and become~~
25 ~~effective on the date specified in the tariff, but in no event~~
26 ~~earlier than 30 days after the filing of such tariff. The~~
27 ~~commission shall have continuing regulatory oversight of local~~
28 ~~exchange telecommunications company-provided network access~~
29 ~~services for purposes of determining the correctness of any~~
30 ~~price increase resulting from the application of the inflation~~
31 ~~index and making any necessary adjustments, establishing~~

1 ~~reasonable service quality criteria, and assuring resolution~~
2 ~~of service complaints. No later than 30 days after the filing~~
3 ~~of such tariff, the commission may, with respect to~~
4 ~~determining the correctness of any price increase, vote,~~
5 ~~without hearing, the local exchange telecommunications company~~
6 ~~to hold subject to refund all revenues collected under the~~
7 ~~rate increase. Within 60 days after such order, the commission~~
8 ~~must make a determination either compelling a refund of all or~~
9 ~~part of such revenues or releasing them from such requirement.~~

10 (2)(6) ~~Any local exchange telecommunications company~~
11 ~~with more than 100,000, but fewer than 3 million, basic local~~
12 ~~telecommunications service access lines in service on July 1,~~
13 ~~1995, shall reduce its intrastate switched access rates by 5~~
14 ~~percent on July 1, 1998, and by 10 percent on October 1, 1998.~~
15 Any intrastate interexchange telecommunications company whose
16 intrastate switched network access rate is reduced as a result
17 of the rate adjustments ~~decreases~~ made by a local exchange
18 telecommunications company in accordance with s. 364.164 ~~this~~
19 ~~subsection~~ shall decrease its intrastate long distance
20 revenues ~~rates~~ by the amount necessary to return the benefits
21 of such reduction to both its residential and business
22 ~~customers but shall not reduce per minute intra-LATA toll~~
23 ~~rates by a percentage greater than the per minute intrastate~~
24 ~~switched access rate reductions required by this act. The~~
25 intrastate interexchange telecommunications company carrier
26 may determine the specific intrastate rates to be decreased,
27 provided that residential and business customers benefit from
28 the rate decreases. Any in-state connection fee or similarly
29 named fee shall be eliminated by July 1, 2006, provided that
30 the timetable determined pursuant to s. 364.164(1) reduces
31 intrastate switched network access rates in an amount that

1 results in the elimination of such fee in a revenue-neutral
2 manner. The tariff changes, if any, made by the intrastate
3 interexchange telecommunications company to carry out the
4 requirements of this subsection shall be presumed valid and
5 shall become effective on 1 day's notice.

6 ~~(7) Telecommunications company intrastate switched~~
7 ~~access and customer long distance rate reductions shall become~~
8 ~~effective on October 1 of each relevant year. Rate decreases~~
9 ~~proposed in tariff revisions filed by the telecommunications~~
10 ~~companies with the commission shall be presumed valid and~~
11 ~~become effective on October 1 of each relevant year.~~

12 ~~(8) No later than 30 days after the filing of such~~
13 ~~tariff, the commission may, with respect to determining the~~
14 ~~correctness of any rate decrease, vote, without hearing, the~~
15 ~~telecommunications company to hold subject to refund all~~
16 ~~intrastate switched access or customer long distance rate~~
17 ~~revenues collected after the rate decrease. Within 60 days~~
18 ~~after such order, the commission must make a determination~~
19 ~~either compelling a refund of the appropriate part of such~~
20 ~~revenues or releasing all such revenues from such requirement.~~

21 (3)(9) The commission shall have continuing regulatory
22 oversight of intrastate switched network access and customer
23 long distance rates for purposes of determining the
24 correctness of any rate decrease by a telecommunications
25 company resulting from the application of s. 364.164 ~~this~~
26 ~~section~~ and making any necessary adjustments to those rates,
27 ~~establishing reasonable service quality criteria, and assuring~~
28 ~~resolution of service complaints.~~

29 Section 15. Section 364.164, Florida Statutes, is
30 created to read:

31 364.164 Competitive market enhancement.--

1 (1) Each local exchange telecommunications company
2 may, after July 1, 2003, petition the commission to reduce its
3 intrastate switched network access rate in a revenue-neutral
4 manner. The commission shall issue its final order granting or
5 denying any petition filed pursuant to this section within 90
6 days. In reaching its decision, the commission shall consider
7 whether granting the petition will:

8 (a) Remove current support for basic local
9 telecommunications services that prevents the creation of a
10 more attractive competitive local exchange market for the
11 benefit of residential consumers.

12 (b) Induce enhanced market entry.

13 (c) Require intrastate switched network access rate
14 reductions to parity over a period of not less than 2 years or
15 more than 4 years.

16 (d) Be revenue neutral as defined in subsection (7)
17 within the revenue category defined in subsection (2).

18 (2) If the commission grants the local exchange
19 telecommunications company's petition, the local exchange
20 telecommunications company is authorized, the requirements of
21 s. 364.051(3) notwithstanding, to immediately implement a
22 revenue category mechanism consisting of basic local
23 telecommunications service revenues and intrastate switched
24 network access revenues to achieve revenue neutrality. The
25 local exchange telecommunications company shall thereafter, on
26 45 days' notice, adjust the various prices and rates of the
27 services within its revenue category authorized by this
28 section once in any 12-month period in a revenue-neutral
29 manner. An adjustment in rates may not be offset entirely by
30 the company's basic monthly recurring rate. All annual rate
31 adjustments within the revenue category established pursuant

1 to this section must be implemented simultaneously and must be
2 revenue neutral. The commission shall, within 45 days after
3 the rate adjustment filing, issue a final order confirming
4 compliance with this section, and such an order shall be final
5 for all purposes.

6 (3) Any filing under this section must be based on the
7 company's most recent 12 months' pricing units in accordance
8 with subsection (7) for any service included in the revenue
9 category established under this section. The commission may
10 only verify the pricing units for the purpose of ensuring that
11 the company's specific adjustments, as authorized by this
12 section, make the revenue category revenue neutral for each
13 filing. Any discovery or information requests under this
14 section must be limited to a verification of historical
15 pricing units necessary to fulfill the commission's specific
16 responsibilities under this section of ensuring that the
17 company's rate adjustments make the revenue category revenue
18 neutral for each annual filing.

19 (4) This section does not affect the local exchange
20 telecommunications company's exemptions pursuant to s.
21 364.051(1)(c) or authorize any local exchange
22 telecommunications company to increase the cost of local
23 exchange services to any person providing services under s.
24 364.3375.

25 (5) As used in this section, the term "parity" means
26 that the local exchange telecommunications company's
27 intrastate switched network access rate is equal to its
28 interstate switched network access rate in effect on January
29 1, 2003, if the company has more than 1 million access lines
30 in service. If the company has 1 million or less access lines
31 in service, the term "parity" means that the company's

1 intrastate switched network access rate is equal to 8 cents
2 per minute. This section does not prevent the company from
3 making further reductions in its intrastate switched network
4 access rate, within the revenue category established in this
5 section, below parity on a revenue-neutral basis, or from
6 making other revenue-neutral rate adjustments within this
7 category.

8 (6) As used in this section, the term "intrastate
9 switched network access rate" means the composite of the
10 originating and terminating network access rate for carrier
11 common line, local channel/entrance facility, switched common
12 transport, access tandem switching, interconnection charge,
13 signaling, information surcharge, and local switching.

14 (7) As used in this section, the term "revenue
15 neutral" means that the total revenue within the revenue
16 category established pursuant to this section remains the same
17 before and after the local exchange telecommunications company
18 implements any rate adjustments under this section.

19 Calculation of revenue received from each service before the
20 implementation of any rate adjustment must be made by
21 multiplying the then-current rate for each service by the most
22 recent 12 months' actual pricing units for each service within
23 the category, without any adjustments to the number of pricing
24 units. Calculation of revenue for each service to be received
25 after implementation of rate adjustments must be made by
26 multiplying the rate to be applicable for each service by the
27 most recent 12 months' actual pricing units for each service
28 within the category, without any adjustments to the number of
29 pricing units. Billing units associated with pay telephone
30 access lines and Lifeline service may not be included in any
31 calculation under this subsection.

1 (8) If either the Federal Communications Commission or
2 the commission issues a final order determining that
3 voice-over-internet protocol service or a functionally
4 equivalent service shall not be subject to the payment of
5 switched network access rates pursuant to a local exchange
6 telecommunications company tariff or interconnection agreement
7 or other law, the provisions of subsection (2) shall
8 immediately become operative as if the commission had granted
9 a petition pursuant to subsection (1). Any local exchange
10 telecommunications company subject to this section shall be
11 authorized to reduce its switched network access rates to the
12 company's authorized local reciprocal compensation rates in a
13 revenue-neutral manner, pursuant to subsections (2)-(7), in
14 the shortest remaining timeframe allowable under this section.

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

17 364.337 Competitive ~~Alternate~~ local exchange
18 telecommunications companies; intrastate interexchange
19 telecommunications services; certification.--

20 (1) Upon this act becoming a law, a party may file an
21 application for a certificate as a competitive ~~an alternative~~
22 local exchange telecommunications company before January 1,
23 1996, and the commission shall conduct its review of the
24 application and take all actions necessary to process the
25 application. However, an application shall become effective no
26 sooner than January 1, 1996. The commission shall grant a
27 certificate of authority to provide competitive ~~alternative~~
28 local exchange service upon a showing that the applicant has
29 sufficient technical, financial, and managerial capability to
30 provide such service in the geographic area proposed to be
31 served. A competitive ~~In no event may an alternative~~ local

1 exchange telecommunications company may not offer basic local
2 telecommunications services within the territory served by a
3 company subject to s. 364.052 prior to January 1, 2001, unless
4 the small local exchange telecommunications company elects to
5 be regulated under s. 364.051 or provides cable television
6 programming services directly or as video dial tone
7 applications authorized under 47 U.S.C. s. 214, except as
8 provided for in compliance with part II. It is the intent of
9 the Legislature that the commission act expeditiously to grant
10 certificates of authority under this section and that the
11 grant of certificates not be affected by the application of
12 any criteria other than that specifically enumerated in this
13 subsection.

14 (2) Rules adopted by the commission governing the
15 provision of competitive ~~alternative~~ local exchange
16 telecommunications service shall be consistent with s. 364.01.
17 The basic local telecommunications service provided by a
18 competitive ~~an alternative~~ local exchange telecommunications
19 company must include access to operator services, "911"
20 services, and relay services for the hearing impaired. A
21 competitive ~~An alternative~~ local exchange telecommunications
22 company's "911" service shall be provided at a level
23 equivalent to that provided by the local exchange
24 telecommunications company serving the same area. There shall
25 be a flat-rate pricing option for basic local
26 telecommunications services, and mandatory measured service
27 for basic local telecommunications services shall not be
28 imposed. A certificated competitive ~~alternative~~ local exchange
29 telecommunications company may petition the commission for a
30 waiver of some or all of the requirements of this chapter,
31 except ss. 364.16, 364.336, and subsections (1) and (5). The

1 commission may grant such petition if determined to be in the
2 public interest. Competitive ~~In no event shall alternative~~
3 local exchange telecommunications companies are not ~~be~~ subject
4 to the requirements of ss. 364.03, 364.035, 364.037, 364.05,
5 364.055, 364.14, 364.17, 364.18, 364.33, and 364.3381.

6 (3) The commission shall grant a certificate of
7 authority to provide intrastate interexchange
8 telecommunications service upon a showing that the applicant
9 has sufficient technical, financial, and managerial capability
10 to provide such service in the geographic area proposed to be
11 served.

12 (4) Rules adopted by the commission governing the
13 provision of intrastate interexchange telecommunications
14 service must ~~shall~~ be consistent with s. 364.01. A
15 certificated intrastate interexchange telecommunications
16 company may petition the commission for a waiver for some or
17 all of the requirements of this chapter, except s. 364.16, s.
18 364.335(3), or subsection (5). The commission may grant such
19 petition if determined to be in the public interest. ~~In no~~
20 ~~event shall~~ Intrastate interexchange telecommunications
21 companies are not ~~be~~ subject to the requirements of ss.
22 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17,
23 364.18, and 364.3381.

24 (5) The commission shall have continuing regulatory
25 oversight over the provision of basic local exchange
26 telecommunications service provided by a certificated
27 competitive ~~alternative~~ local exchange telecommunications
28 company or a certificated alternative access vendor for
29 purposes of establishing reasonable service quality criteria,
30 assuring resolution of service complaints, and ensuring the
31

1 fair treatment of all telecommunications providers in the
2 telecommunications marketplace.

3 (6)(a) The Legislature finds the provision of
4 alternative access vendor services to be in the public
5 interest, and the commission may authorize the provision of
6 such service. For the purposes of this section, effective
7 January 1, 1996, the term "alternative access vendor services"
8 means the provision of private line service between an entity
9 and facilities at another location, whether owned by the
10 entity or an unaffiliated entity or access service between an
11 end user and an interexchange carrier by other than a local
12 exchange telecommunications company. For purposes of this
13 chapter, the term "private line service" means any dedicated
14 point-to-point or point-to-multipoint service for the
15 transmission of any public telecommunications service.

16 (b) A ~~No~~ person may not ~~shall~~ provide alternative
17 access vendor services without first obtaining a certificate
18 from the commission. Any certificated alternative access
19 vendor as of the date this act becomes a law wishing to
20 provide alternative local exchange telecommunications service
21 in addition to the services authorized in its certificate may
22 do so, effective January 1, 1996, upon furnishing written
23 notice to the commission.

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

26 364.3376 Operator services.--

27 (1)(a) A ~~No~~ person may not ~~shall~~ provide operator
28 services as defined in s. 364.02 without first obtaining from
29 the commission a certificate of public convenience and
30 necessity as ~~either~~ an operator services provider ~~or an~~
31 ~~interexchange telecommunications company.~~

1 (b) ~~The provisions of~~ This section does ~~shall~~ not
2 apply to operator services provided by a local exchange
3 telecommunications company or by an intrastate interexchange
4 telecommunications company, except as required by the
5 commission in the public interest.

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

8 364.502 Video programming; capacity for public use.--

9 (1) Each local exchange telecommunications company or
10 competitive ~~alternative~~ local exchange telecommunications
11 company which provides video programming shall, prior to
12 providing such programming, file with the commission a
13 designation of reserve capacity for public, educational, or
14 governmental use. The commission shall review the filed
15 designation to determine whether such designation ensures that
16 public education and public information programming are
17 adequately available to the customers of such
18 telecommunications company. The commission shall consider the
19 following factors in determining whether the filed designation
20 complies with the requirements of this chapter:

21 (a) Reservation and designation requirements provided
22 by federal law, if any.

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

25 (c) The barriers to providing such programming in the
26 service area.

27 (d) The cost and availability of such programming in
28 the service area.

29 (e) Other factors which the commission deems
30 appropriate.

31

1 Section 19. Paragraph (i) of subsection (3) of section
2 365.172, Florida Statutes, is amended to read:

3 365.172 Wireless emergency telephone number "E911."--

4 (3) DEFINITIONS.--As used in this section and ss.
5 365.173 and 365.174, the term:

6 (i) "Local exchange carrier" means a ~~an~~ "competitive
7 ~~alternative~~ local exchange telecommunications company" or a
8 "local exchange telecommunications company" as defined in s.
9 364.02.

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

12 196.012 Definitions.--For the purpose of this chapter,
13 the following terms are defined as follows, except where the
14 context clearly indicates otherwise:

15 (6) Governmental, municipal, or public purpose or
16 function shall be deemed to be served or performed when the
17 lessee under any leasehold interest created in property of the
18 United States, the state or any of its political subdivisions,
19 or any municipality, agency, special district, authority, or
20 other public body corporate of the state is demonstrated to
21 perform a function or serve a governmental purpose which could
22 properly be performed or served by an appropriate governmental
23 unit or which is demonstrated to perform a function or serve a
24 purpose which would otherwise be a valid subject for the
25 allocation of public funds. For purposes of the preceding
26 sentence, an activity undertaken by a lessee which is
27 permitted under the terms of its lease of real property
28 designated as an aviation area on an airport layout plan which
29 has been approved by the Federal Aviation Administration and
30 which real property is used for the administration, operation,
31 business offices and activities related specifically thereto

1 | in connection with the conduct of an aircraft full service
2 | fixed base operation which provides goods and services to the
3 | general aviation public in the promotion of air commerce shall
4 | be deemed an activity which serves a governmental, municipal,
5 | or public purpose or function. Any activity undertaken by a
6 | lessee which is permitted under the terms of its lease of real
7 | property designated as a public airport as defined in s.
8 | 332.004(14) by municipalities, agencies, special districts,
9 | authorities, or other public bodies corporate and public
10 | bodies politic of the state, a spaceport as defined in s.
11 | 331.303(19), or which is located in a deepwater port
12 | identified in s. 403.021(9)(b) and owned by one of the
13 | foregoing governmental units, subject to a leasehold or other
14 | possessory interest of a nongovernmental lessee that is deemed
15 | to perform an aviation, airport, aerospace, maritime, or port
16 | purpose or operation shall be deemed an activity that serves a
17 | governmental, municipal, or public purpose. The use by a
18 | lessee, licensee, or management company of real property or a
19 | portion thereof as a convention center, visitor center, sports
20 | facility with permanent seating, concert hall, arena, stadium,
21 | park, or beach is deemed a use that serves a governmental,
22 | municipal, or public purpose or function when access to the
23 | property is open to the general public with or without a
24 | charge for admission. If property deeded to a municipality by
25 | the United States is subject to a requirement that the Federal
26 | Government, through a schedule established by the Secretary of
27 | the Interior, determine that the property is being maintained
28 | for public historic preservation, park, or recreational
29 | purposes and if those conditions are not met the property will
30 | revert back to the Federal Government, then such property
31 | shall be deemed to serve a municipal or public purpose. The

1 term "governmental purpose" also includes a direct use of
2 property on federal lands in connection with the Federal
3 Government's Space Exploration Program or spaceport activities
4 as defined in s. 212.02(22). Real property and tangible
5 personal property owned by the Federal Government or the
6 Florida Space Authority and used for defense and space
7 exploration purposes or which is put to a use in support
8 thereof shall be deemed to perform an essential national
9 governmental purpose and shall be exempt. "Owned by the
10 lessee" as used in this chapter does not include personal
11 property, buildings, or other real property improvements used
12 for the administration, operation, business offices and
13 activities related specifically thereto in connection with the
14 conduct of an aircraft full service fixed based operation
15 which provides goods and services to the general aviation
16 public in the promotion of air commerce provided that the real
17 property is designated as an aviation area on an airport
18 layout plan approved by the Federal Aviation Administration.
19 For purposes of determination of "ownership," buildings and
20 other real property improvements which will revert to the
21 airport authority or other governmental unit upon expiration
22 of the term of the lease shall be deemed "owned" by the
23 governmental unit and not the lessee. Providing two-way
24 telecommunications services to the public for hire by the use
25 of a telecommunications facility, as defined in s. 364.02(14)
26 ~~s. 364.02(13)~~, and for which a certificate is required under
27 chapter 364 does not constitute an exempt use for purposes of
28 s. 196.199, unless the telecommunications services are
29 provided by the operator of a public-use airport, as defined
30 in s. 332.004, for the operator's provision of
31 telecommunications services for the airport or its tenants,

1 concessionaires, or licensees, or unless the
2 telecommunications services are provided by a public hospital.
3 However, property that is being used to provide such
4 telecommunications services on or before October 1, 1997,
5 shall remain exempt, but such exemption expires October 1,
6 2004.

7 Section 21. Paragraph (b) of subsection (1) of section
8 199.183, Florida Statutes, is amended to read:

9 199.183 Taxpayers exempt from annual and nonrecurring
10 taxes.--

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

15 (b) Property related to the provision of two-way
16 telecommunications services to the public for hire by the use
17 of a telecommunications facility, as defined in s. 364.02(14)
18 ~~s. 364.02(13)~~, and for which a certificate is required under
19 chapter 364, when such service is provided by any county,
20 municipality, or other political subdivision of the state. Any
21 immunity of any political subdivision of the state or other
22 entity of local government from taxation of the property used
23 to provide telecommunication services that is taxed as a
24 result of this paragraph is hereby waived. However, intangible
25 personal property related to the provision of such
26 telecommunications services provided by the operator of a
27 public-use airport, as defined in s. 332.004, for the
28 operator's provision of telecommunications services for the
29 airport or its tenants, concessionaires, or licensees, and
30 intangible personal property related to the provision of such
31

1 telecommunications services provided by a public hospital, are
2 exempt from taxation under this chapter.

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

5 212.08 Sales, rental, use, consumption, distribution,
6 and storage tax; specified exemptions.--The sale at retail,
7 the rental, the use, the consumption, the distribution, and
8 the storage to be used or consumed in this state of the
9 following are hereby specifically exempt from the tax imposed
10 by this chapter.

11 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are
12 also exempt from the tax imposed by this chapter sales made to
13 the United States Government, a state, or any county,
14 municipality, or political subdivision of a state when payment
15 is made directly to the dealer by the governmental entity.
16 This exemption shall not inure to any transaction otherwise
17 taxable under this chapter when payment is made by a
18 government employee by any means, including, but not limited
19 to, cash, check, or credit card when that employee is
20 subsequently reimbursed by the governmental entity. This
21 exemption does not include sales of tangible personal property
22 made to contractors employed either directly or as agents of
23 any such government or political subdivision thereof when such
24 tangible personal property goes into or becomes a part of
25 public works owned by such government or political
26 subdivision. A determination whether a particular transaction
27 is properly characterized as an exempt sale to a government
28 entity or a taxable sale to a contractor shall be based on the
29 substance of the transaction rather than the form in which the
30 transaction is cast. The department shall adopt rules that
31 give special consideration to factors that govern the status

1 of the tangible personal property before its affixation to
2 real property. In developing these rules, assumption of the
3 risk of damage or loss is of paramount consideration in the
4 determination. This exemption does not include sales, rental,
5 use, consumption, or storage for use in any political
6 subdivision or municipality in this state of machines and
7 equipment and parts and accessories therefor used in the
8 generation, transmission, or distribution of electrical energy
9 by systems owned and operated by a political subdivision in
10 this state for transmission or distribution expansion.
11 Likewise exempt are charges for services rendered by radio and
12 television stations, including line charges, talent fees, or
13 license fees and charges for films, videotapes, and
14 transcriptions used in producing radio or television
15 broadcasts. The exemption provided in this subsection does not
16 include sales, rental, use, consumption, or storage for use in
17 any political subdivision or municipality in this state of
18 machines and equipment and parts and accessories therefor used
19 in providing two-way telecommunications services to the public
20 for hire by the use of a telecommunications facility, as
21 defined in s. 364.02(14)~~s. 364.02(13)~~, and for which a
22 certificate is required under chapter 364, which facility is
23 owned and operated by any county, municipality, or other
24 political subdivision of the state. Any immunity of any
25 political subdivision of the state or other entity of local
26 government from taxation of the property used to provide
27 telecommunication services that is taxed as a result of this
28 section is hereby waived. However, the exemption provided in
29 this subsection includes transactions taxable under this
30 chapter which are for use by the operator of a public-use
31 airport, as defined in s. 332.004, in providing such

1 telecommunications services for the airport or its tenants,
2 concessionaires, or licensees, or which are for use by a
3 public hospital for the provision of such telecommunications
4 services.

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

7 290.007 State incentives available in enterprise
8 zones.--The following incentives are provided by the state to
9 encourage the revitalization of enterprise zones:

10 (8) Notwithstanding any law to the contrary, the
11 Public Service Commission may allow public utilities and
12 telecommunications companies to grant discounts of up to 50
13 percent on tariffed rates for services to small businesses
14 located in an enterprise zone designated pursuant to s.
15 290.0065. Such discounts may be granted for a period not to
16 exceed 5 years. For purposes of this subsection, the term
17 "public utility" has the same meaning as in s. 366.02(1) and
18 the term "telecommunications company" has the same meaning as
19 in s. 364.02(13)~~s. 364.02(12)~~.

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

22 350.0605 Former commissioners and employees;
23 representation of clients before commission.--

24 (3) For a period of 2 years following termination of
25 service on the commission, a former member may not accept
26 employment by or compensation from a business entity which,
27 directly or indirectly, owns or controls a public utility
28 regulated by the commission, from a public utility regulated
29 by the commission, from a business entity which, directly or
30 indirectly, is an affiliate or subsidiary of a public utility
31 regulated by the commission or is an actual business

1 competitor of a local exchange company or public utility
2 regulated by the commission and is otherwise exempt from
3 regulation by the commission under ss. 364.02(13) ~~364.02(12)~~
4 and 366.02(1), or from a business entity or trade association
5 that has been a party to a commission proceeding within the 2
6 years preceding the member's termination of service on the
7 commission. This subsection applies only to members of the
8 Florida Public Service Commission who are appointed or
9 reappointed after May 10, 1993.

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

12 364.602 Definitions.--For purposes of this part:

13 (4) "Originating party" means any person, firm,
14 corporation, or other entity, including a telecommunications
15 company or a billing clearinghouse, that provides any
16 telecommunications service or information service to a
17 customer or bills a customer through a billing party, except
18 the term "originating party" does not include any entity
19 specifically exempted from the definition of
20 "telecommunications company" as provided in s. 364.02(13) ~~s.~~
21 ~~364.02(12)~~.

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

24 489.103 Exemptions.--This part does not apply to:

25 (5) Public utilities, including special gas districts
26 as defined in chapter 189, telecommunications companies as
27 defined in s. 364.02(13) ~~s. 364.02(12)~~, and natural gas
28 transmission companies as defined in s. 368.103(4), on
29 construction, maintenance, and development work performed by
30 their employees, which work, including, but not limited to,
31 work on bridges, roads, streets, highways, or railroads, is

1 incidental to their business. The board shall define, by rule,
2 the term "incidental to their business" for purposes of this
3 subsection.

4 Section 27. This act shall take effect upon becoming a
5 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 654

4 The Committee Substitute for SB 654 does the following:

5 -This committee substitute creates the Tele-Competition
6 Innovation and Infrastructure Enhancement Act of 2003.

7 -Voice over internet protocol (VOIP) service is exempt from
8 commission regulation and broadband or information services is
9 exempt from local government regulation. In addition,
10 intrastate interexchange telecommunications companies (IXCs)
11 are not considered telecommunications companies except in
12 certain circumstances and eliminates the requirement that IXCs
13 providing operator service obtain a certificate or be subject
14 to greater regulation than the incumbent local exchange
15 telecommunications companies (ILECs).

16 -The ILECs' universal service and carrier-of-last-resort
17 obligations are extended until January 1, 2009. The Public
18 Service Commission is required to determine whether it has the
19 necessary authority to address a different universal service
20 support mechanism for small local exchange telecommunications
21 companies under certain circumstances. The commission is to
22 report its finding to the Legislature or recommend statutory
23 changes, if necessary.

24 -Lifeline participation is increased to 125 percent of federal
25 poverty income level and requires certain actions by
26 companies, state agencies, and the commission to increase
27 subscribership. The commission is to report to the Legislature
28 Lifeline status.

29 -References to alternative local exchange telecommunications
30 companies(ALECs) are changed to competitive local exchange
31 telecommunications companies (CLECs).

32 -Allows ILECs to petition the commission to reduce its access
33 charges to parity in a revenue neutral manner and provides the
34 criteria the commission must consider when rendering its
35 decision. "Parity" is defined as the interstate switched
36 network access rates in effect on January 1, 2003. Caps
37 network access charges at parity levels for three years after
38 parity is reached and requires IXCs to pass through access
39 reductions and eliminate any "instate connection fees."

40 -If an ILEC with more than one million access lines in service
41 reduces its access charges to parity, then it may have its
42 basic local services (residential and single line business)
43 treated in the same manner as its non-basic services and its
44 retail service quality requirements no greater than the
45 service requirements then being imposed on the CLEC, unless
46 the PSC determines otherwise under certain conditions. Allows
47 an ILEC to petition for retail regulatory treatment no greater
48 than CLECs when the ILEC has elected to treat its basic local
49 services the same as its non-basic service when certain
50 conditions are met. Applies these conditions to small local
51 exchange telecommunications companies that have reduced their
52 intrastate switched network access rates to a level equal to

1 | their rates in effect on January 1, 2003.
2 | -Creates a procedure for staying and resolving reductions of
3 | basic service prices in an anti-competitive manner when
4 | certain conditions are met. Creates a limited proceeding to
5 | quickly resolve disputes between telecommunications companies.
6 | -Makes cross reference corrections and conforming terminology.
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