

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; amending
31 s. 365.0361, F.S.; providing exclusivity for

1 certain regulations; amending s. 364.051, F.S.;
2 conforming terminology; providing circumstances
3 under which certain telecommunications
4 companies may elect alternative regulations;
5 providing an exception; prohibiting an increase
6 in certain regulations on competitive local
7 exchange telecommunications companies; amending
8 s. 364.052, F.S.; conforming terminology;
9 amending s. 364.058, F.S.; providing for an
10 expedited process to facilitate quick
11 resolution of disputes between
12 telecommunications companies; providing
13 rulemaking authority; creating s. 364.059,
14 F.S.; providing procedures for staying election
15 of local exchange telecommunications companies
16 to be subject to alternative regulations;
17 requiring the Public Service Commission to
18 provide benchmarks and criteria for granting
19 stays; providing rulemaking authority; amending
20 s. 364.10, F.S.; requiring certain local
21 exchange telecommunications companies to
22 provide Lifeline services to certain persons;
23 providing for eligibility determinations by the
24 Public Counsel for receipt of such services;
25 prohibiting rate increases for basic local
26 telecommunications services provided to such
27 eligible persons; requiring distribution of
28 certain materials; requiring annual reports;
29 amending ss. 364.16, 364.161, and 364.162,
30 F.S.; conforming terminology; amending s.
31 364.163, F.S.; deleting obsolete language;

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

25

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

27

28 Section 1. This act may be cited as the
29 "Tele-Competition Innovation and Infrastructure Enhancement
30 Act."

31

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

3 364.01 Powers of commission, legislative intent.--

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

28 Section 3. Section 364.02, Florida Statutes, is
29 amended to read:

30 364.02 Definitions.--As used in this chapter:

31

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

5 (1)~~(2)~~ "Basic local telecommunications service" means
6 voice-grade, flat-rate residential, and flat-rate single-line
7 business local exchange services which provide dial tone,
8 local usage necessary to place unlimited calls within a local
9 exchange area, dual tone multifrequency dialing, and access to
10 the following: emergency services such as "911," all locally
11 available interexchange companies, directory assistance,
12 operator services, relay services, and an alphabetical
13 directory listing. For a local exchange telecommunications
14 company, such term shall include any extended area service
15 routes, and extended calling service in existence or ordered
16 by the commission on or before July 1, 1995.

17 (2)~~(3)~~ "Commercial mobile radio service provider"
18 means a commercial mobile radio service provider as defined by
19 and pursuant to 47 U.S.C. ss. 153(n) and 332(d).

20 (3)~~(4)~~ "Commission" means the Florida Public Service
21 Commission.

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

26 (5) "Corporation" includes a corporation, company,
27 association, or joint stock association.

28 (6) "Intrastate interexchange telecommunications
29 company" means any entity that provides intrastate
30 interexchange telecommunications services.

31

1 ~~(7)(6)~~ "Local exchange telecommunications company"
2 means any company certificated by the commission to provide
3 local exchange telecommunications service in this state on or
4 before June 30, 1995.

5 ~~(8)(7)~~ "Monopoly service" means a telecommunications
6 service for which there is no effective competition, either in
7 fact or by operation of law.

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

13 ~~(10)(9)~~ "Operator service" includes, but is not
14 limited to, billing or completion of third-party,
15 person-to-person, collect, or calling card or credit card
16 calls through the use of a live operator or automated
17 equipment.

18 ~~(11)(10)~~ "Operator service provider" means a person
19 who furnishes operator service through a call aggregator.

20 ~~(12)(11)~~ "Service" is to be construed in its broadest
21 and most inclusive sense. The term "service" does not include
22 voice-over-internet protocol service for purposes of
23 regulation by the commission. Nothing herein shall affect the
24 rights and obligations of any entity related to the payment of
25 switched network access rates or other intercarrier
26 compensation, if any, related to voice-over-internet protocol
27 service.

28 ~~(13)(12)~~ "Telecommunications company" includes every
29 corporation, partnership, and person and their lessees,
30 trustees, or receivers appointed by any court whatsoever, and
31 every political subdivision in the state, offering two-way

1 telecommunications service to the public for hire within this
2 state by the use of a telecommunications facility. The term
3 "telecommunications company" does not include:

4 (a) An entity which provides a telecommunications
5 facility exclusively to a certificated telecommunications
6 company;

7 (b) An entity which provides a telecommunications
8 facility exclusively to a company which is excluded from the
9 definition of a telecommunications company under this
10 subsection;

11 (c) A commercial mobile radio service provider;

12 (d) A facsimile transmission service;

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

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

17 (g) An intrastate interexchange telecommunications
18 company.

19

20 However, each commercial mobile radio service provider and
21 each intrastate interexchange telecommunications company shall
22 continue to be liable for any taxes imposed pursuant to
23 chapters 202, 203 and 212 and any fees assessed pursuant to
24 ss. ~~s.~~ 364.025 and 364.336. Each intrastate interexchange
25 telecommunications company shall continue to be subject to ss.
26 364.04, 364.10(3)(a) and (d), 364.285, 364.163, 364.501,
27 364.603, and 364.604, shall provide the commission with such
28 current information as the commission deems necessary to
29 contact and communicate with the company, shall continue to
30 pay intrastate switched network access rates or other
31 intercarrier compensation to the local exchange

1 telecommunications company or the competitive local exchange
2 telecommunications company for the origination and termination
3 of interexchange telecommunications service, and shall reduce
4 its intrastate long distance toll rates in accordance with s.
5 364.163(2).

6 (14)~~(13)~~ "Telecommunications facility" includes real
7 estate, easements, apparatus, property, and routes used and
8 operated to provide two-way telecommunications service to the
9 public for hire within this state.

10 Section 4. Section 364.025, Florida Statutes, is
11 amended to read:

12 364.025 Universal service.--

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

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

26 (3) If ~~in the event~~ any party, prior to January 1,
27 2009 ~~2004~~, believes that circumstances have changed
28 substantially to warrant a change in the interim mechanism,
29 that party may petition the commission for a change, but the
30 commission shall grant such petition only after an opportunity
31 for a hearing and a compelling showing of changed

1 circumstances, including that the provider's customer
2 population includes as many residential as business customers.
3 The commission shall act on any such petition within 120 days.

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

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

20 (c) In determining the cost of providing basic local
21 telecommunications service for small local exchange
22 telecommunications companies, which serve less than 100,000
23 access lines, the commission shall not be required to use the
24 cost proxy model selected pursuant to paragraph (b) until a
25 mechanism is implemented by the Federal Government for small
26 companies, but no sooner than January 1, 2001. The commission
27 shall calculate a small local exchange telecommunications
28 company's cost of providing basic local telecommunications
29 services based on one of the following options:

- 30 1. A different proxy model; or
31

1 2. A fully distributed allocation of embedded costs,
2 identifying high-cost areas within the local exchange area the
3 company serves and including all embedded investments and
4 expenses incurred by the company in the provision of universal
5 service. Such calculations may be made using fully distributed
6 costs consistent with 47 C.F.R. parts 32, 36, and 64. The
7 geographic basis for the calculations shall be no smaller than
8 a census block group.

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

30 Section 5. Section 364.0361, Florida Statutes, is
31 amended to read:

1 364.0361 Local government authority; nondiscriminatory
2 exercise.--A local government shall treat each
3 telecommunications company in a nondiscriminatory manner when
4 exercising its authority to grant franchises to a
5 telecommunications company or to otherwise establish
6 conditions or compensation for the use of rights-of-way or
7 other public property by a telecommunications company. A local
8 government may not directly or indirectly regulate the terms
9 and conditions, including, but not limited to, the operating
10 systems, qualifications, services, service quality, service
11 territory, and prices, applicable to or in connection with the
12 provision of any broadband or information service. This
13 section does not relieve a provider from any obligations under
14 s. 166.046 or s. 337.401.

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

19 364.051 Price regulation.--

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

24 (a) For a local exchange telecommunications company
25 with 100,000 or more access lines in service as of July 1,
26 1995, such company may file with the commission a notice of
27 election to be under price regulation effective January 1,
28 1996, or when a competitive ~~an alternative~~ local exchange
29 telecommunications company is certificated to provide local
30 exchange telecommunications services in its service territory,
31 whichever is later.

1 (3) ~~If in the event that~~ it is determined that the
2 level of competition justifies the elimination of price caps
3 in an exchange served by a local exchange telecommunications
4 company with less than 3 million basic local
5 telecommunications service access lines in service, or at the
6 end of 5 years for any local exchange telecommunications
7 company, the local exchange telecommunications company may
8 thereafter on 30 days' notice adjust its basic service
9 revenues ~~prices~~ once in any 12-month period in an amount not
10 to exceed the change in inflation less 1 percent. Inflation
11 shall be measured by the changes in the Gross Domestic Product
12 Fixed 1987 Weights Price Index, or successor fixed weight
13 price index, published in the Survey of Current Business or a
14 publication, by the United States Department of Commerce. In
15 the event any local exchange telecommunications company, after
16 January 1, 2001, believes that the level of competition
17 justifies the elimination of any form of price regulation, the
18 company may petition the Legislature.

19 (6) After a local exchange telecommunications company
20 that has more than 1 million access lines in service has
21 reduced its intrastate switched network access rates to
22 parity, as defined in s. 364.164(5), the local exchange
23 telecommunications company's basic local telecommunications
24 service may, at the company's election, be subject to the same
25 regulatory treatment as its nonbasic services. The company's
26 retail service quality requirements that are not already equal
27 to the service quality requirements imposed upon the
28 competitive local exchange telecommunications companies shall
29 thereafter be no greater than those imposed upon competitive
30 local exchange telecommunications companies unless the
31 commission, within 120 days after the company's election,

1 determines otherwise. In such event, the commission may grant
2 some reductions in service quality requirements in some or all
3 of the company's local calling areas. The commission may not
4 impose retail service quality requirements on competitive
5 local exchange telecommunications companies greater than those
6 existing on January 1, 2003.

7 (7) If a local exchange telecommunications company
8 elects, pursuant to subsection (6), to subject its retail
9 basic local telecommunications services to the same regulatory
10 treatment as its nonbasic services, the local exchange
11 telecommunications company may petition the commission for
12 regulatory treatment of its retail services at a level no
13 greater than that imposed by the commission upon competitive
14 local exchange telecommunications companies. The local
15 exchange telecommunications company shall:

16 (a) Show that granting the petition is in the public
17 interest;

18 (b) Reduce its intrastate switched network access
19 rates to its local reciprocal interconnection rate upon the
20 grant of the petition.

21
22 The commission shall act upon such a petition within 9 months
23 after its filing with the commission. In making its
24 determination to either grant or deny the petition, the
25 commission shall determine the extent to which the level of
26 competition faced by the local exchange telecommunications
27 company permits and will continue to permit the company to
28 have its retail services regulated no differently than the
29 competitive local exchange telecommunications companies are
30 then being regulated. The commission may not increase the
31 level of regulation for competitive local exchange

1 telecommunications companies to a level greater than that
2 which exists on the date the local exchange telecommunications
3 company files its petition.

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

10 Section 7. Subsections (2), (3), and (4) of section
11 364.052, Florida Statutes, are amended to read:

12 364.052 Regulatory methods for small local exchange
13 telecommunications companies.--

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

1 At such time, the small local exchange telecommunications
2 company shall be subject to s. 364.051.

3 (a) The commission shall establish, by rule, ranges of
4 basic factors for lives and salvage values to be used in
5 developing depreciation rates for companies subject to this
6 section. Companies shall have the option of using basic
7 factors within the established ranges or of filing
8 depreciation studies.

9 (b) The commission shall adopt, by rule, streamlined
10 procedures for regulating companies subject to this section.
11 These procedures shall minimize the burdens of regulation with
12 regard to audits, investigations, service standards, cost
13 studies, reports, and other matters, and the commission shall
14 establish, by rule, only those procedures that are
15 cost-justified and are in the public interest so that
16 universal service may be promoted. Upon petition filed in
17 this rulemaking proceeding, the commission shall review and
18 may approve any regulations unique to the specific
19 circumstances of a company subject to this section.

20 (3) A company subject to this section may at any time
21 after January 1, 1996, elect to be regulated pursuant to s.
22 364.051. If such a company so elects or provides cable
23 television programming services directly or as video dial tone
24 applications authorized under 47 U.S.C. s. 214, except as
25 provided for in compliance with part II of this chapter, a
26 certificated competitive ~~alternative~~ local exchange company
27 may provide local exchange telecommunications services within
28 the territory of the electing company.

29 (4) Any competitive ~~alternative~~ local exchange
30 telecommunications company competing within the territory of
31 any small local exchange telecommunications company must do so

1 on an exchange-wide basis for the provision of flat-rated,
2 switched residential and business local exchange
3 telecommunications services in all exchanges in which they
4 elect to serve, unless the commission determines otherwise.
5 The competitive ~~alternative~~ local exchange telecommunications
6 company may petition and the commission has the authority to
7 determine that it is in the public interest for a competitive
8 ~~an alternative~~ local exchange telecommunications company to
9 service a geographic territory that is less than an entire
10 exchange.

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

13 364.058 Limited proceedings.--

14 (3) The commission shall implement an expedited
15 process to facilitate the quick resolution of disputes between
16 telecommunications companies. The process implemented by the
17 commission shall, to the greatest extent feasible, minimize
18 the time necessary to reach a decision on a dispute. The
19 commission may limit the use of the expedited process based on
20 the number of parties, the number of issues, or the complexity
21 of the issues. For any proceeding conducted pursuant to the
22 expedited process, the commission shall make its determination
23 within 120 days after a petition is filed or a motion is made.
24 The commission shall adopt rules to implement this subsection.

25 Section 9. Section 364.059, Florida Statutes, is
26 created to read:

27 364.059 Procedures for seeking stay; benchmark;
28 criteria.--

29 (1) If a local exchange telecommunications company has
30 elected, pursuant to s. 364.051(6), to have its basic local
31

1 telecommunications services treated the same as its nonbasic
2 services, the following procedures shall be available:

3 (a) Any petition filed by a substantially interested
4 party against a local exchange telecommunications company
5 seeking a stay of the effective date of a price reduction for
6 a basic local telecommunications service, alleging an
7 anticompetitive price reduction pursuant to s. 364.051(5), s.
8 364.08, s. 364.09, s. 364.10, or s. 364.3381, shall be
9 resolved by the commission pursuant to this section and by an
10 order issued within 45 days after the date the petition is
11 filed.

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

16 (c) This section does not prevent the local exchange
17 telecommunications company from raising any affirmative
18 defenses provided by law.

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

21 (e) If the commission grants a stay, the stay may not
22 exceed 45 days, and the commission shall make a determination
23 on the merits within the 45-day period, unless the commission
24 extends this time period, not to exceed 15 days, based on a
25 delay in the availability of relevant cost studies and
26 supporting documents.

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

30 (g) The petitioner shall have the burden of proof that
31 a statutory violation has occurred, but the commission and the

1 petitioner shall have access, pursuant to s. 364.183, to the
2 local exchange telecommunications company's relevant cost
3 studies and supporting documents.

4 (h) The commission shall reject any petition within 15
5 days after filing if the local exchange telecommunications
6 company challenges the petition and the commission determines
7 that the petition on its face alleges the same violations and
8 the same facts that have previously been resolved against the
9 petitioner.

10 (2) For purposes of carrying out the procedures set
11 forth in subsection (1), the commission shall establish an
12 objective benchmark, such as a price or cost floor, by which
13 the commission may determine whether a requested stay of a
14 basic local telecommunications service price reduction is
15 warranted. Such a benchmark must be based upon generally
16 accepted economic costing and pricing principles and judicial
17 or regulatory costing and pricing precedent. The commission
18 shall also establish the criteria for determining on the
19 merits whether the basic local telecommunications service
20 price reduction is in fact anticompetitive. Such criteria must
21 be based upon generally accepted economic competitive costing
22 and pricing principles and judicial or regulatory precedent
23 for detecting the presence of anticompetitive pricing.
24 However, the commission may not establish benchmarks or
25 criteria that are inconsistent with or interfere with the
26 competitive pricing conduct permitted by existing law. The
27 commission shall establish the benchmark and criteria by rule,
28 which rule adoption proceeding shall commence no earlier than
29 January 1, 2005, and a final order shall issue within 120 days
30 after commencement. Such benchmarks and criteria must be
31 available when subsection (1) becomes effective. If s.

1 364.164(8) becomes operative, the commission shall immediately
2 commence establishment of the benchmark and criteria required
3 for the procedures set forth in subsection (1) and this
4 subsection, but nothing herein shall prevent or delay a local
5 exchange telecommunications company from making and
6 implementing the election provided for in s. 364.051(6).

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

9 364.10 Undue advantage to person or locality
10 prohibited; exception.--

11 (3)(a) Effective September 1, 2003, any local exchange
12 telecommunications company authorized by the commission to
13 reduce its switched network access rate pursuant to s. 364.164
14 shall have tariffed and shall provide Lifeline service to any
15 otherwise eligible customer or potential customer who meets an
16 income eligibility test at 125 percent or less of the federal
17 poverty income guidelines for Lifeline customers. Such a test
18 for eligibility must augment, rather than replace, the
19 eligibility standards established by federal law and based on
20 participation in certain low-income assistance programs. Each
21 intrastate interexchange telecommunications company shall,
22 effective September 1, 2003, file a tariff providing at a
23 minimum the intrastate interexchange telecommunications
24 carrier's current Lifeline benefits and exemptions to Lifeline
25 customers who meet the income eligibility test set forth in
26 this subsection. The Office of Public Counsel shall certify
27 and maintain claims submitted by a customer for eligibility
28 under the income test authorized by this subsection.

29 (b) Each local exchange telecommunications company
30 subject to this subsection shall provide to each state and
31 federal agency providing benefits to persons eligible for

1 Lifeline service applications, brochures, pamphlets, or other
2 materials that inform such persons of their eligibility for
3 Lifeline, and each state agency providing such benefits shall
4 furnish the materials to affected persons at the time they
5 apply for benefits.

6 (c) Any local exchange telecommunications company
7 customer receiving Lifeline benefits shall not be subject to
8 any residential basic local telecommunications service rate
9 increases authorized by s. 364.164 until the local exchange
10 telecommunications company reaches parity as defined in s.
11 364.164(5) or until the customer no longer qualifies for the
12 Lifeline benefits established by this section or s. 364.105,
13 or unless otherwise determined by the commission upon petition
14 by a local exchange telecommunications company.

15 (d) By December 31, 2003, each state agency that
16 provides benefits to persons eligible for Lifeline service
17 shall undertake, in cooperation with the Department of
18 Children and Family Services, the commission, and
19 telecommunications companies providing Lifeline services, the
20 development of procedures to promote Lifeline participation.

21 (e) The commission shall report to the Governor, the
22 President of the Senate, and the Speaker of the House of
23 Representatives by December 31 each year on the number of
24 customers who are subscribing to Lifeline service and the
25 effectiveness of any procedures to promote participation.

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

29 364.16 Connection of lines and transfers; local
30 interconnection; telephone number portability.--

31

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

12 (3) Each local exchange telecommunications company
13 shall provide access to, and interconnection with, its
14 telecommunications facilities to any other provider of local
15 exchange telecommunications services requesting such access
16 and interconnection at nondiscriminatory prices, rates, terms,
17 and conditions established by the procedures set forth in s.
18 364.162.

19 (a) No local exchange telecommunications company or
20 competitive ~~alternative~~ local exchange telecommunications
21 company shall knowingly deliver traffic, for which terminating
22 access service charges would otherwise apply, through a local
23 interconnection arrangement without paying the appropriate
24 charges for such terminating access service.

25 (5) When requested, each certificated
26 telecommunications company shall provide access to any poles,
27 conduits, rights-of-way, and like facilities that it owns or
28 controls to any local exchange telecommunications company or
29 competitive ~~alternative~~ local exchange telecommunications
30 company pursuant to reasonable rates and conditions mutually
31

1 agreed to which do not discriminate between similarly situated
2 companies.

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

5 364.161 Unbundling and resale.--

6 (3) Only after a competitive ~~an alternative~~ local
7 exchange telecommunications company has been determined to be
8 a carrier of last resort shall such company, upon request by
9 another telecommunications provider, be required, for purposes
10 of resale, to unbundle its local exchange services, network
11 features, functions and capabilities, including its local
12 loop, to the extent such unbundling is technically and
13 economically feasible. The parties shall negotiate the terms,
14 conditions, and prices of any feasible unbundling request. If
15 the parties cannot reach a satisfactory resolution within 60
16 days, either party may petition the commission to arbitrate
17 the dispute and the commission shall make a determination
18 within 120 days. The prices shall not be below cost.

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

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

31

1 364.162 Negotiated prices for interconnection and for
2 the resale of services and facilities; commission rate
3 setting.--

4 (1) A competitive ~~An alternative~~ local exchange
5 telecommunications company shall have 60 days from the date it
6 is certificated to negotiate with a local exchange
7 telecommunications company mutually acceptable prices, terms,
8 and conditions of interconnection and for the resale of
9 services and facilities. If a negotiated price is not
10 established after 60 days, either party may petition the
11 commission to establish nondiscriminatory rates, terms, and
12 conditions of interconnection and for the resale of services
13 and facilities. The commission shall have 120 days to make a
14 determination after proceeding as required by subsection (2).
15 Whether set by negotiation or by the commission,
16 interconnection and resale prices, rates, terms, and
17 conditions shall be filed with the commission before their
18 effective date. The commission shall have the authority to
19 arbitrate any dispute regarding interpretation of
20 interconnection or resale prices and terms and conditions.

21 Section 14. Section 364.163, Florida Statutes, is
22 amended to read:

23 364.163 Network access services.--For purposes of this
24 section, the term "network access service" is defined as any
25 service provided by a local exchange telecommunications
26 company to a telecommunications company certificated under
27 this chapter or licensed by the Federal Communications
28 Commission to access the local exchange telecommunications
29 network, excluding the local interconnection arrangements in
30 s. 364.16 and the resale arrangements in s. 364.161. Each
31 local exchange telecommunications company subject to s.

1 364.051 shall maintain tariffs with the commission containing
2 the terms, conditions, and rates for each of its network
3 access services.

4 ~~(1) Effective January 1, 1999, the rates for switched~~
5 ~~network access services of each company subject to this~~
6 ~~section shall be capped at the rates in effect on January 1,~~
7 ~~1999, and shall remain capped until January 1, 2001. Upon the~~
8 ~~date of filing its election with the commission, the network~~
9 ~~access service rates of a company that elects to become~~
10 ~~subject to this section shall be capped at the rates in effect~~
11 ~~on that date and shall remain capped for 5 years.~~

12 ~~(1)(2) After the termination of the caps imposed on~~
13 ~~rates by subsection (1) and after a local exchange~~
14 ~~telecommunications company's intrastate switched network~~
15 ~~access rates are reduced to or below reach parity, as defined~~
16 ~~in s. 364.164(5), the company's intrastate switched network~~
17 ~~access rates shall be, and shall remain, capped for 3 years~~
18 ~~with its interstate switched access rates, a company subject~~
19 ~~to this section may, on 30 days' notice, annually adjust any~~
20 ~~specific network access service rate in an amount not to~~
21 ~~exceed the cumulative change in inflation experienced after~~
22 ~~the date of the last adjustment, provided, however, that no~~
23 ~~such adjustment shall ever exceed 3 percent annually of the~~
24 ~~then-current prices. Inflation shall be measured by the~~
25 ~~changes in Gross Domestic Product Fixed 1987 Weights Price~~
26 ~~Index, or successor fixed weight price index, published in the~~
27 ~~Survey of Current Business, or successor publication, by the~~
28 ~~United States Department of Commerce.~~

29 ~~(3) After the termination of the caps imposed on rates~~
30 ~~by subsection (1), a company subject to this section may, at~~
31 ~~any time, petition the commission for a network access service~~

1 ~~rate change to recover the cost of governmentally mandated~~
2 ~~projects or programs or an increase in federal or state income~~
3 ~~tax incurred after that date. The costs and expenses of the~~
4 ~~government program or project required in part II of this~~
5 ~~chapter shall not be recovered under this subsection unless~~
6 ~~such costs and expenses are incurred in the absence of a bid~~
7 ~~and subject to carrier of last resort obligations as provided~~
8 ~~for in part II of this chapter. With respect to~~
9 ~~governmentally mandated projects and programs, such petition~~
10 ~~shall be acted upon no later than 90 days after the date of~~
11 ~~filing. A company subject to this section shall show the~~
12 ~~commission that the cost of a project or program is not~~
13 ~~recoverable either from the government mandating the project~~
14 ~~or program or from the beneficiaries of the project or program~~
15 ~~through user fees or other new revenue sources from the~~
16 ~~project or program, and to the extent that cost decreases~~
17 ~~resulting from the project or program are reflected as an~~
18 ~~offset to cost increases. A company subject to this section~~
19 ~~shall decrease its network access rates by amounts that~~
20 ~~reflect any federal or state income tax reduction. Nothing~~
21 ~~contained in this section shall allow any revisions in the~~
22 ~~rates, terms, and conditions for commercial mobile radio~~
23 ~~service access, which revisions are inconsistent with the~~
24 ~~requirements or methodologies of the Federal Communications~~
25 ~~Commission.~~

26 ~~(4) A company subject to this section may choose to~~
27 ~~implement all or a portion of a rate increase allowed for~~
28 ~~network access service by subsections (1), (2), and (3).~~
29 ~~Notwithstanding subsections (1), (2), and (3), a company~~
30 ~~subject to this section may choose to decrease network service~~
31

1 ~~rates at any time, and decreased rates shall become effective~~
2 ~~upon 7 days' notice.~~

3 ~~(5) Company-proposed changes to the terms and~~
4 ~~conditions for existing network access services in accordance~~
5 ~~with subsections (1), (2), (3), and (4) shall be presumed~~
6 ~~valid and become effective upon 15 days' notice.~~
7 ~~Company-proposed rate reductions shall become effective upon 7~~
8 ~~days' notice. Rate increases made by the local exchange~~
9 ~~telecommunications company shall be presumed valid and become~~
10 ~~effective on the date specified in the tariff, but in no event~~
11 ~~earlier than 30 days after the filing of such tariff. The~~
12 ~~commission shall have continuing regulatory oversight of local~~
13 ~~exchange telecommunications company-provided network access~~
14 ~~services for purposes of determining the correctness of any~~
15 ~~price increase resulting from the application of the inflation~~
16 ~~index and making any necessary adjustments, establishing~~
17 ~~reasonable service quality criteria, and assuring resolution~~
18 ~~of service complaints. No later than 30 days after the filing~~
19 ~~of such tariff, the commission may, with respect to~~
20 ~~determining the correctness of any price increase, vote,~~
21 ~~without hearing, the local exchange telecommunications company~~
22 ~~to hold subject to refund all revenues collected under the~~
23 ~~rate increase. Within 60 days after such order, the commission~~
24 ~~must make a determination either compelling a refund of all or~~
25 ~~part of such revenues or releasing them from such requirement.~~

26 ~~(2)(6) Any local exchange telecommunications company~~
27 ~~with more than 100,000, but fewer than 3 million, basic local~~
28 ~~telecommunications service access lines in service on July 1,~~
29 ~~1995, shall reduce its intrastate switched access rates by 5~~
30 ~~percent on July 1, 1998, and by 10 percent on October 1, 1998.~~
31 Any intrastate interexchange telecommunications company whose

1 intrastate switched network access rate is reduced as a result
2 of the rate adjustments ~~decreases~~ made by a local exchange
3 telecommunications company in accordance with s. 364.164 ~~this~~
4 ~~subsection~~ shall decrease its intrastate long distance
5 revenues ~~rates~~ by the amount necessary to return the benefits
6 of such reduction to both its residential and business
7 customers ~~but shall not reduce per minute intra-LATA toll~~
8 ~~rates by a percentage greater than the per minute intrastate~~
9 ~~switched access rate reductions required by this act.~~ The
10 intrastate interexchange telecommunications company carrier
11 may determine the specific intrastate rates to be decreased,
12 provided that residential and business customers benefit from
13 the rate decreases. Any in-state connection fee or similarly
14 named fee shall be eliminated by July 1, 2006, provided that
15 the timetable determined pursuant to s. 364.164(1) reduces
16 intrastate switched network access rates in an amount that
17 results in the elimination of such fee in a revenue-neutral
18 manner. The tariff changes, if any, made by the intrastate
19 interexchange telecommunications company to carry out the
20 requirements of this subsection shall be presumed valid and
21 shall become effective on 1 day's notice.

22 ~~(7) Telecommunications company intrastate switched~~
23 ~~access and customer long distance rate reductions shall become~~
24 ~~effective on October 1 of each relevant year. Rate decreases~~
25 ~~proposed in tariff revisions filed by the telecommunications~~
26 ~~companies with the commission shall be presumed valid and~~
27 ~~become effective on October 1 of each relevant year.~~

28 ~~(8) No later than 30 days after the filing of such~~
29 ~~tariff, the commission may, with respect to determining the~~
30 ~~correctness of any rate decrease, vote, without hearing, the~~
31 ~~telecommunications company to hold subject to refund all~~

1 ~~intrastate switched access or customer long distance rate~~
2 ~~revenues collected after the rate decrease. Within 60 days~~
3 ~~after such order, the commission must make a determination~~
4 ~~either compelling a refund of the appropriate part of such~~
5 ~~revenues or releasing all such revenues from such requirement.~~

6 (3)(9) The commission shall have continuing regulatory
7 oversight of intrastate switched network access and customer
8 long distance rates for purposes of determining the
9 correctness of any rate decrease by a telecommunications
10 company resulting from the application of s. 364.164 ~~this~~
11 ~~section~~ and making any necessary adjustments to those rates,
12 ~~establishing reasonable service quality criteria, and assuring~~
13 ~~resolution of service complaints.~~

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

16 364.164 Competitive market enhancement.--

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

24 (a) Remove current support for basic local
25 telecommunications services that prevents the creation of a
26 more attractive competitive local exchange market for the
27 benefit of residential consumers.

28 (b) Induce enhanced market entry.

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

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

3 (2) If the commission grants the local exchange
4 telecommunications company's petition, the local exchange
5 telecommunications company is authorized, the requirements of
6 s. 364.051(3) notwithstanding, to immediately implement a
7 revenue category mechanism consisting of basic local
8 telecommunications service revenues and intrastate switched
9 network access revenues to achieve revenue neutrality. The
10 local exchange telecommunications company shall thereafter, on
11 45 days' notice, adjust the various prices and rates of the
12 services within its revenue category authorized by this
13 section once in any 12-month period in a revenue-neutral
14 manner. An adjustment in rates may not be offset entirely by
15 the company's basic monthly recurring rate. All annual rate
16 adjustments within the revenue category established pursuant
17 to this section must be implemented simultaneously and must be
18 revenue neutral. The commission shall, within 45 days after
19 the rate adjustment filing, issue a final order confirming
20 compliance with this section, and such an order shall be final
21 for all purposes.

22 (3) Any filing under this section must be based on the
23 company's most recent 12 months' pricing units in accordance
24 with subsection (7) for any service included in the revenue
25 category established under this section. The commission shall
26 have the authority only to verify the pricing units for the
27 purpose of ensuring that the company's specific adjustments,
28 as authorized by this section, make the revenue category
29 revenue neutral for each filing. Any discovery or information
30 requests under this section must be limited to a verification
31 of historical pricing units necessary to fulfill the

1 commission's specific responsibilities under this section of
2 ensuring that the company's rate adjustments make the revenue
3 category revenue neutral for each annual filing.

4 (4) This section does not affect the local exchange
5 telecommunications company's exemptions pursuant to s.
6 364.051(1)(c) or authorize any local exchange
7 telecommunications company to increase the cost of local
8 exchange services to any person providing services under s.
9 364.3375.

10 (5) As used in this section, the term "parity" means
11 that the local exchange telecommunications company's
12 intrastate switched network access rate is equal to its
13 interstate switched network access rate in effect on January
14 1, 2003, if the company has more than 1 million access lines
15 in service. If the company has 1 million or less access lines
16 in service, the term "parity" means that the company's
17 intrastate switched network access rate is equal to 8 cents
18 per minute. This section does not prevent the company from
19 making further reductions in its intrastate switched network
20 access rate, within the revenue category established in this
21 section, below parity on a revenue-neutral basis, or from
22 making other revenue-neutral rate adjustments within this
23 category.

24 (6) As used in this section, the term "intrastate
25 switched network access rate" means the composite of the
26 originating and terminating network access rate for carrier
27 common line, local channel/entrance facility, switched common
28 transport, access tandem switching, interconnection charge,
29 signaling, information surcharge, and local switching.

30 (7) As used in this section, the term "revenue
31 neutral" means that the total revenue within the revenue

1 category established pursuant to this section remains the same
2 before and after the local exchange telecommunications company
3 implements any rate adjustments under this section.
4 Calculation of revenue received from each service before the
5 implementation of any rate adjustment must be made by
6 multiplying the then-current rate for each service by the most
7 recent 12 months' actual pricing units for each service within
8 the category, without any adjustments to the number of pricing
9 units. Calculation of revenue for each service to be received
10 after implementation of rate adjustments must be made by
11 multiplying the rate to be applicable for each service by the
12 most recent 12 months' actual pricing units for each service
13 within the category, without any adjustments to the number of
14 pricing units. Billing units associated with pay telephone
15 access lines and Lifeline service may not be included in any
16 calculation under this subsection.

17 (8) If either the Federal Communications Commission or
18 the commission issues a final order determining that
19 voice-over-internet protocol service or a functionally
20 equivalent service shall not be subject to the payment of
21 switched network access rates pursuant to a local exchange
22 telecommunications company tariff or interconnection agreement
23 or other law, the provisions of subsection (2) shall
24 immediately become operative as if the commission had granted
25 a petition pursuant to subsection (1). Any local exchange
26 telecommunications company subject to this section shall be
27 authorized to reduce its switched network access rates to the
28 company's authorized local reciprocal compensation rates in a
29 revenue-neutral manner, pursuant to subsections (2)-(7), in
30 the shortest remaining timeframe allowable under this section.

31

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

3 364.337 Competitive ~~Alternate~~ local exchange
4 telecommunications companies; intrastate interexchange
5 telecommunications services; certification.--

6 (1) Upon this act becoming a law, a party may file an
7 application for a certificate as a competitive ~~an alternative~~
8 local exchange telecommunications company before January 1,
9 1996, and the commission shall conduct its review of the
10 application and take all actions necessary to process the
11 application. However, an application shall become effective no
12 sooner than January 1, 1996. The commission shall grant a
13 certificate of authority to provide competitive ~~alternative~~
14 local exchange service upon a showing that the applicant has
15 sufficient technical, financial, and managerial capability to
16 provide such service in the geographic area proposed to be
17 served. A competitive ~~in no event may an alternative~~ local
18 exchange telecommunications company may not offer basic local
19 telecommunications services within the territory served by a
20 company subject to s. 364.052 prior to January 1, 2001, unless
21 the small local exchange telecommunications company elects to
22 be regulated under s. 364.051 or provides cable television
23 programming services directly or as video dial tone
24 applications authorized under 47 U.S.C. s. 214, except as
25 provided for in compliance with part II. It is the intent of
26 the Legislature that the commission act expeditiously to grant
27 certificates of authority under this section and that the
28 grant of certificates not be affected by the application of
29 any criteria other than that specifically enumerated in this
30 subsection.

31

1 (2) Rules adopted by the commission governing the
2 provision of competitive ~~alternative~~ local exchange
3 telecommunications service shall be consistent with s. 364.01.
4 The basic local telecommunications service provided by a
5 competitive ~~an alternative~~ local exchange telecommunications
6 company must include access to operator services, "911"
7 services, and relay services for the hearing impaired. A
8 competitive ~~An alternative~~ local exchange telecommunications
9 company's "911" service shall be provided at a level
10 equivalent to that provided by the local exchange
11 telecommunications company serving the same area. There shall
12 be a flat-rate pricing option for basic local
13 telecommunications services, and mandatory measured service
14 for basic local telecommunications services shall not be
15 imposed. A certificated competitive ~~alternative~~ local exchange
16 telecommunications company may petition the commission for a
17 waiver of some or all of the requirements of this chapter,
18 except ss. 364.16, 364.336, and subsections (1) and (5). The
19 commission may grant such petition if determined to be in the
20 public interest. Competitive ~~In no event shall alternative~~
21 local exchange telecommunications companies are not ~~be~~ subject
22 to the requirements of ss. 364.03, 364.035, 364.037, 364.05,
23 364.055, 364.14, 364.17, 364.18, 364.33, and 364.3381.

24 (3) The commission shall grant a certificate of
25 authority to provide intrastate interexchange
26 telecommunications service upon a showing that the applicant
27 has sufficient technical, financial, and managerial capability
28 to provide such service in the geographic area proposed to be
29 served.

30 (4) Rules adopted by the commission governing the
31 provision of intrastate interexchange telecommunications

1 service must ~~shall~~ be consistent with s. 364.01. A
2 certificated intrastate interexchange telecommunications
3 company may petition the commission for a waiver for some or
4 all of the requirements of this chapter, except s. 364.16, s.
5 364.335(3), or subsection (5). The commission may grant such
6 petition if determined to be in the public interest. ~~In no~~
7 ~~event shall~~ Intrastate interexchange telecommunications
8 companies are not ~~be~~ subject to the requirements of ss.
9 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17,
10 364.18, and 364.3381.

11 (5) The commission shall have continuing regulatory
12 oversight over the provision of basic local exchange
13 telecommunications service provided by a certificated
14 competitive alternative ~~local exchange~~ telecommunications
15 company or a certificated alternative access vendor for
16 purposes of establishing reasonable service quality criteria,
17 assuring resolution of service complaints, and ensuring the
18 fair treatment of all telecommunications providers in the
19 telecommunications marketplace.

20 (6)(a) The Legislature finds the provision of
21 alternative access vendor services to be in the public
22 interest, and the commission may authorize the provision of
23 such service. For the purposes of this section, effective
24 January 1, 1996, the term "alternative access vendor services"
25 means the provision of private line service between an entity
26 and facilities at another location, whether owned by the
27 entity or an unaffiliated entity or access service between an
28 end user and an interexchange carrier by other than a local
29 exchange telecommunications company. For purposes of this
30 chapter, the term "private line service" means any dedicated
31

1 point-to-point or point-to-multipoint service for the
2 transmission of any public telecommunications service.

3 (b) A ~~No~~ person may not ~~shall~~ provide alternative
4 access vendor services without first obtaining a certificate
5 from the commission. Any certificated alternative access
6 vendor as of the date this act becomes a law wishing to
7 provide alternative local exchange telecommunications service
8 in addition to the services authorized in its certificate may
9 do so, effective January 1, 1996, upon furnishing written
10 notice to the commission.

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

13 364.3376 Operator services.--

14 (1)(a) A ~~No~~ person may not ~~shall~~ provide operator
15 services as defined in s. 364.02 without first obtaining from
16 the commission a certificate of public convenience and
17 necessity as ~~either~~ an operator services provider ~~or an~~
18 ~~interexchange telecommunications company~~.

19 (b) ~~The provisions of~~ This section does ~~shall~~ not
20 apply to operator services provided by a local exchange
21 telecommunications company or by an intrastate interexchange
22 telecommunications company, except as required by the
23 commission in the public interest.

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

26 364.502 Video programming; capacity for public use.--

27 (1) Each local exchange telecommunications company or
28 competitive ~~alternative~~ local exchange telecommunications
29 company which provides video programming shall, prior to
30 providing such programming, file with the commission a
31 designation of reserve capacity for public, educational, or

1 governmental use. The commission shall review the filed
2 designation to determine whether such designation ensures that
3 public education and public information programming are
4 adequately available to the customers of such
5 telecommunications company. The commission shall consider the
6 following factors in determining whether the filed designation
7 complies with the requirements of this chapter:

8 (a) Reservation and designation requirements provided
9 by federal law, if any.

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

12 (c) The barriers to providing such programming in the
13 service area.

14 (d) The cost and availability of such programming in
15 the service area.

16 (e) Other factors which the commission deems
17 appropriate.

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

20 365.172 Wireless emergency telephone number "E911."--

21 (3) DEFINITIONS.--As used in this section and ss.
22 365.173 and 365.174, the term:

23 (i) "Local exchange carrier" means a ~~an~~ "competitive
24 ~~alternative~~ local exchange telecommunications company" or a
25 "local exchange telecommunications company" as defined in s.
26 364.02.

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

29 196.012 Definitions.--For the purpose of this chapter,
30 the following terms are defined as follows, except where the
31 context clearly indicates otherwise:

1 (6) Governmental, municipal, or public purpose or
2 function shall be deemed to be served or performed when the
3 lessee under any leasehold interest created in property of the
4 United States, the state or any of its political subdivisions,
5 or any municipality, agency, special district, authority, or
6 other public body corporate of the state is demonstrated to
7 perform a function or serve a governmental purpose which could
8 properly be performed or served by an appropriate governmental
9 unit or which is demonstrated to perform a function or serve a
10 purpose which would otherwise be a valid subject for the
11 allocation of public funds. For purposes of the preceding
12 sentence, an activity undertaken by a lessee which is
13 permitted under the terms of its lease of real property
14 designated as an aviation area on an airport layout plan which
15 has been approved by the Federal Aviation Administration and
16 which real property is used for the administration, operation,
17 business offices and activities related specifically thereto
18 in connection with the conduct of an aircraft full service
19 fixed base operation which provides goods and services to the
20 general aviation public in the promotion of air commerce shall
21 be deemed an activity which serves a governmental, municipal,
22 or public purpose or function. Any activity undertaken by a
23 lessee which is permitted under the terms of its lease of real
24 property designated as a public airport as defined in s.
25 332.004(14) by municipalities, agencies, special districts,
26 authorities, or other public bodies corporate and public
27 bodies politic of the state, a spaceport as defined in s.
28 331.303(19), or which is located in a deepwater port
29 identified in s. 403.021(9)(b) and owned by one of the
30 foregoing governmental units, subject to a leasehold or other
31 possessory interest of a nongovernmental lessee that is deemed

1 to perform an aviation, airport, aerospace, maritime, or port
2 purpose or operation shall be deemed an activity that serves a
3 governmental, municipal, or public purpose. The use by a
4 lessee, licensee, or management company of real property or a
5 portion thereof as a convention center, visitor center, sports
6 facility with permanent seating, concert hall, arena, stadium,
7 park, or beach is deemed a use that serves a governmental,
8 municipal, or public purpose or function when access to the
9 property is open to the general public with or without a
10 charge for admission. If property deeded to a municipality by
11 the United States is subject to a requirement that the Federal
12 Government, through a schedule established by the Secretary of
13 the Interior, determine that the property is being maintained
14 for public historic preservation, park, or recreational
15 purposes and if those conditions are not met the property will
16 revert back to the Federal Government, then such property
17 shall be deemed to serve a municipal or public purpose. The
18 term "governmental purpose" also includes a direct use of
19 property on federal lands in connection with the Federal
20 Government's Space Exploration Program or spaceport activities
21 as defined in s. 212.02(22). Real property and tangible
22 personal property owned by the Federal Government or the
23 Florida Space Authority and used for defense and space
24 exploration purposes or which is put to a use in support
25 thereof shall be deemed to perform an essential national
26 governmental purpose and shall be exempt. "Owned by the
27 lessee" as used in this chapter does not include personal
28 property, buildings, or other real property improvements used
29 for the administration, operation, business offices and
30 activities related specifically thereto in connection with the
31 conduct of an aircraft full service fixed based operation

1 which provides goods and services to the general aviation
2 public in the promotion of air commerce provided that the real
3 property is designated as an aviation area on an airport
4 layout plan approved by the Federal Aviation Administration.
5 For purposes of determination of "ownership," buildings and
6 other real property improvements which will revert to the
7 airport authority or other governmental unit upon expiration
8 of the term of the lease shall be deemed "owned" by the
9 governmental unit and not the lessee. Providing two-way
10 telecommunications services to the public for hire by the use
11 of a telecommunications facility, as defined in s. 364.02(14)
12 ~~s. 364.02(13)~~, and for which a certificate is required under
13 chapter 364 does not constitute an exempt use for purposes of
14 s. 196.199, unless the telecommunications services are
15 provided by the operator of a public-use airport, as defined
16 in s. 332.004, for the operator's provision of
17 telecommunications services for the airport or its tenants,
18 concessionaires, or licensees, or unless the
19 telecommunications services are provided by a public hospital.
20 However, property that is being used to provide such
21 telecommunications services on or before October 1, 1997,
22 shall remain exempt, but such exemption expires October 1,
23 2004.

24 Section 21. Paragraph (b) of subsection (1) of section
25 199.183, Florida Statutes, is amended to read:

26 199.183 Taxpayers exempt from annual and nonrecurring
27 taxes.--

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

1 (b) Property related to the provision of two-way
2 telecommunications services to the public for hire by the use
3 of a telecommunications facility, as defined in s. 364.02(14)
4 ~~s. 364.02(13)~~, and for which a certificate is required under
5 chapter 364, when such service is provided by any county,
6 municipality, or other political subdivision of the state. Any
7 immunity of any political subdivision of the state or other
8 entity of local government from taxation of the property used
9 to provide telecommunication services that is taxed as a
10 result of this paragraph is hereby waived. However, intangible
11 personal property related to the provision of such
12 telecommunications services provided by the operator of a
13 public-use airport, as defined in s. 332.004, for the
14 operator's provision of telecommunications services for the
15 airport or its tenants, concessionaires, or licensees, and
16 intangible personal property related to the provision of such
17 telecommunications services provided by a public hospital, are
18 exempt from taxation under this chapter.

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

21 212.08 Sales, rental, use, consumption, distribution,
22 and storage tax; specified exemptions.--The sale at retail,
23 the rental, the use, the consumption, the distribution, and
24 the storage to be used or consumed in this state of the
25 following are hereby specifically exempt from the tax imposed
26 by this chapter.

27 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are
28 also exempt from the tax imposed by this chapter sales made to
29 the United States Government, a state, or any county,
30 municipality, or political subdivision of a state when payment
31 is made directly to the dealer by the governmental entity.

1 This exemption shall not inure to any transaction otherwise
2 taxable under this chapter when payment is made by a
3 government employee by any means, including, but not limited
4 to, cash, check, or credit card when that employee is
5 subsequently reimbursed by the governmental entity. This
6 exemption does not include sales of tangible personal property
7 made to contractors employed either directly or as agents of
8 any such government or political subdivision thereof when such
9 tangible personal property goes into or becomes a part of
10 public works owned by such government or political
11 subdivision. A determination whether a particular transaction
12 is properly characterized as an exempt sale to a government
13 entity or a taxable sale to a contractor shall be based on the
14 substance of the transaction rather than the form in which the
15 transaction is cast. The department shall adopt rules that
16 give special consideration to factors that govern the status
17 of the tangible personal property before its affixation to
18 real property. In developing these rules, assumption of the
19 risk of damage or loss is of paramount consideration in the
20 determination. This exemption does not include sales, rental,
21 use, consumption, or storage for use in any political
22 subdivision or municipality in this state of machines and
23 equipment and parts and accessories therefor used in the
24 generation, transmission, or distribution of electrical energy
25 by systems owned and operated by a political subdivision in
26 this state for transmission or distribution expansion.
27 Likewise exempt are charges for services rendered by radio and
28 television stations, including line charges, talent fees, or
29 license fees and charges for films, videotapes, and
30 transcriptions used in producing radio or television
31 broadcasts. The exemption provided in this subsection does not

1 include sales, rental, use, consumption, or storage for use in
2 any political subdivision or municipality in this state of
3 machines and equipment and parts and accessories therefor used
4 in providing two-way telecommunications services to the public
5 for hire by the use of a telecommunications facility, as
6 defined in s. 364.02(14)~~s. 364.02(13)~~, and for which a
7 certificate is required under chapter 364, which facility is
8 owned and operated by any county, municipality, or other
9 political subdivision of the state. Any immunity of any
10 political subdivision of the state or other entity of local
11 government from taxation of the property used to provide
12 telecommunication services that is taxed as a result of this
13 section is hereby waived. However, the exemption provided in
14 this subsection includes transactions taxable under this
15 chapter which are for use by the operator of a public-use
16 airport, as defined in s. 332.004, in providing such
17 telecommunications services for the airport or its tenants,
18 concessionaires, or licensees, or which are for use by a
19 public hospital for the provision of such telecommunications
20 services.

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

23 290.007 State incentives available in enterprise
24 zones.--The following incentives are provided by the state to
25 encourage the revitalization of enterprise zones:

26 (8) Notwithstanding any law to the contrary, the
27 Public Service Commission may allow public utilities and
28 telecommunications companies to grant discounts of up to 50
29 percent on tariffed rates for services to small businesses
30 located in an enterprise zone designated pursuant to s.
31 290.0065. Such discounts may be granted for a period not to

1 exceed 5 years. For purposes of this subsection, the term
2 "public utility" has the same meaning as in s. 366.02(1) and
3 the term "telecommunications company" has the same meaning as
4 in s. 364.02(13)~~s. 364.02(12)~~.

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

7 350.0605 Former commissioners and employees;
8 representation of clients before commission.--

9 (3) For a period of 2 years following termination of
10 service on the commission, a former member may not accept
11 employment by or compensation from a business entity which,
12 directly or indirectly, owns or controls a public utility
13 regulated by the commission, from a public utility regulated
14 by the commission, from a business entity which, directly or
15 indirectly, is an affiliate or subsidiary of a public utility
16 regulated by the commission or is an actual business
17 competitor of a local exchange company or public utility
18 regulated by the commission and is otherwise exempt from
19 regulation by the commission under ss. 364.02(13) ~~364.02(12)~~
20 and 366.02(1), or from a business entity or trade association
21 that has been a party to a commission proceeding within the 2
22 years preceding the member's termination of service on the
23 commission. This subsection applies only to members of the
24 Florida Public Service Commission who are appointed or
25 reappointed after May 10, 1993.

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

28 364.602 Definitions.--For purposes of this part:

29 (4) "Originating party" means any person, firm,
30 corporation, or other entity, including a telecommunications
31 company or a billing clearinghouse, that provides any

1 telecommunications service or information service to a
2 customer or bills a customer through a billing party, except
3 the term "originating party" does not include any entity
4 specifically exempted from the definition of
5 "telecommunications company" as provided in s. 364.02(13) ~~s.~~
6 ~~364.02(12)~~.

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

9 489.103 Exemptions.--This part does not apply to:

10 (5) Public utilities, including special gas districts
11 as defined in chapter 189, telecommunications companies as
12 defined in s. 364.02(13)~~s. 364.02(12)~~, and natural gas
13 transmission companies as defined in s. 368.103(4), on
14 construction, maintenance, and development work performed by
15 their employees, which work, including, but not limited to,
16 work on bridges, roads, streets, highways, or railroads, is
17 incidental to their business. The board shall define, by rule,
18 the term "incidental to their business" for purposes of this
19 subsection.

20 Section 27. This act shall take effect upon becoming a
21 law.