



1 F.S., relating to video programming services;  
2 amending s. 364.335, F.S.; increasing to \$500  
3 from \$250 the maximum allowable filing fee for  
4 certification of telecommunications carriers;  
5 amending s. 364.336, F.S.; authorizing the  
6 Public Service Commission to establish a  
7 minimum fee of up to \$1,000; authorizing  
8 different fees for different types of services  
9 provided by telecommunications companies;  
10 amending ss. 196.012, 199.183, 212.08, 290.007,  
11 350.0605, 364.602, and 489.103, F.S.;  
12 conforming cross-references; providing  
13 clarification of rights of local governments  
14 and duties of cable service providers to comply  
15 with certain laws and regulations; amending s.  
16 364.051, F.S.; providing that damage to the  
17 equipment and facilities of a local exchange  
18 telecommunications as a result of a named  
19 tropical system constitutes a compelling  
20 showing of changed circumstances to justify a  
21 rate increase; allowing such companies to  
22 petition for recovery of such costs and  
23 expenses; requiring the Public Service  
24 Commission to verify the intrastate costs and  
25 expenses for repairing, restoring, or replacing  
26 damaged lines, plants, or facilities; requiring  
27 the commission to determine whether the  
28 intrastate costs and expenses are reasonable;  
29 requiring a company to exhaust any  
30 storm-reserve funds prior to recovery from  
31 customers; providing that the commission may

1 authorize adding an equal line-item charge per  
2 access line for certain customers; providing  
3 for a rate cap and providing the maximum number  
4 of months the rate may be imposed; providing a  
5 12-month limit for the application; allowing  
6 recovery for more than one storm within the  
7 limit; providing an effective date.  
8

9 Be It Enacted by the Legislature of the State of Florida:  
10

11 Section 1. Section 364.01, Florida Statutes, is  
12 amended to read:

13 364.01 Powers of commission, legislative intent.--

14 (1) The Florida Public Service Commission shall  
15 exercise over and in relation to telecommunications companies  
16 the powers conferred by this chapter.

17 (2) It is the legislative intent to give exclusive  
18 jurisdiction in all matters set forth in this chapter to the  
19 Florida Public Service Commission in regulating  
20 telecommunications companies, and such preemption shall  
21 supersede any local or special act or municipal charter where  
22 any conflict of authority may exist. However, the provisions  
23 of this chapter shall not affect the authority and powers  
24 granted in s. 166.231(9) or s. 337.401.

25 (3) Communications activities that are not regulated  
26 by the Florida Public Service Commission, including, but not  
27 limited to, VoIP, wireless, and broadband, are subject to this  
28 state's generally applicable business regulation and deceptive  
29 trade practices and consumer protection laws, as enforced by  
30 the appropriate state authority or through actions in the  
31 judicial system. This chapter does not limit the availability

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

26 (4) The commission shall exercise its exclusive  
27 jurisdiction in order to:

28 (a) Protect the public health, safety, and welfare by  
29 ensuring that basic local telecommunications services are  
30 available to all consumers in the state at reasonable and  
31 affordable prices.

1 (b) Encourage competition through flexible regulatory  
2 treatment among providers of telecommunications services in  
3 order to ensure the availability of the widest possible range  
4 of consumer choice in the provision of all telecommunications  
5 services.

6 (c) Protect the public health, safety, and welfare by  
7 ensuring that monopoly services provided by telecommunications  
8 companies continue to be subject to effective price, rate, and  
9 service regulation.

10 (d) Promote competition by encouraging innovation and  
11 investment in ~~new entrants into~~ telecommunications markets and  
12 by allowing a transitional period in which new and emerging  
13 technologies ~~entrants~~ are subject to a reduced ~~lesser~~ level of  
14 regulatory oversight ~~than local exchange telecommunications~~  
15 ~~companies~~.

16 (e) Encourage all providers of telecommunications  
17 services to introduce new or experimental telecommunications  
18 services free of unnecessary regulatory restraints.

19 (f) Eliminate any rules or ~~and/or~~ regulations which  
20 will delay or impair the transition to competition.

21 (g) Ensure that all providers of telecommunications  
22 services are treated fairly, by preventing anticompetitive  
23 behavior and eliminating unnecessary regulatory restraint.

24 (h) Recognize the continuing emergence of a  
25 competitive telecommunications environment through the  
26 flexible regulatory treatment of competitive  
27 telecommunications services, where appropriate, if doing so  
28 does not reduce the availability of adequate basic local  
29 telecommunications service to all citizens of the state at  
30 reasonable and affordable prices, if competitive  
31 telecommunications services are not subsidized by monopoly

1 telecommunications services, and if all monopoly services are  
2 available to all competitors on a nondiscriminatory basis.

3 (i) Continue its historical role as a surrogate for  
4 competition for monopoly services provided by local exchange  
5 telecommunications companies.

6 Section 2. Section 364.011, Florida Statutes, is  
7 created to read:

8 364.011 Exemptions from commission jurisdiction.--The  
9 following services are exempt from oversight by the  
10 commission, except to the extent delineated in this chapter or  
11 specifically authorized by federal law:

12 (1) Intrastate interexchange telecommunications  
13 services.

14 (2) Broadband services, regardless of the provider,  
15 platform, or protocol.

16 (3) VoIP.

17 (4) Wireless telecommunications, including commercial  
18 mobile radio service providers.

19 Section 3. Section 364.012, Florida Statutes, is  
20 created to read:

21 364.012 Consistency with federal law.--

22 (1) In order to promote commission coordination with  
23 federal policymakers and regulatory agencies, the commission  
24 shall maintain continuous liaisons with appropriate federal  
25 agencies whose policy decisions and rulemaking authority  
26 affect those telecommunications companies over which the  
27 commission has jurisdiction. The commission is encouraged to  
28 participate in the proceedings of federal agencies in cases in  
29 which the state's consumers may be affected and to convey the  
30 commission's policy positions and information requirements in  
31 order to achieve greater efficiency in regulation.

1           (2) This chapter does not limit or modify the duties  
2 of a local exchange carrier to provide unbundled access to  
3 network elements or the commission's authority to arbitrate  
4 and enforce interconnection agreements to the extent that  
5 those elements are required under 47 U.S.C. ss. 251 and 252,  
6 and under any regulations issued by the Federal Communications  
7 Commission at rates determined in accordance with the  
8 standards established by the Federal Communications Commission  
9 pursuant to 47 C.F.R. ss. 51.503-51.513, inclusive of any  
10 successor regulation or successor forbearance of regulation.

11           Section 4. Section 364.013, Florida Statutes, is  
12 created to read:

13           364.013 Emerging and advanced services.--Broadband  
14 service and the provision of voice-over-Internet-protocol  
15 (VoIP) shall be free of state regulation, except as delineated  
16 in this chapter or as specifically authorized by federal law,  
17 regardless of the provider, platform, or protocol.

18           Section 5. Section 364.02, Florida Statutes, is  
19 amended to read:

20           364.02 Definitions.--As used in this chapter:

21           (1) "Basic local telecommunications service" means  
22 voice-grade, flat-rate residential, and flat-rate single-line  
23 business local exchange services which provide dial tone,  
24 local usage necessary to place unlimited calls within a local  
25 exchange area, dual tone multifrequency dialing, and access to  
26 the following: emergency services such as "911," all locally  
27 available interexchange companies, directory assistance,  
28 operator services, relay services, and an alphabetical  
29 directory listing. For a local exchange telecommunications  
30 company, ~~the such~~ term shall include any extended area service  
31

1 routes, and extended calling service in existence or ordered  
2 by the commission on or before July 1, 1995.

3 (2) "Broadband service" means any service that  
4 consists of or includes the offering of the capability to  
5 transmit or receive information at a rate that is not less  
6 than 200 kilobits per second and either:

7 (a) Is used to provide access to the Internet; or

8 (b) Provides computer processing, information storage,  
9 information content, or protocol conversion in combination  
10 with the service.

11  
12 The definition of broadband service does not include any  
13 intrastate telecommunications services that have been tariffed  
14 with the commission on or before January 1, 2005.

15 (3)(2) "Commercial mobile radio service provider"  
16 means a commercial mobile radio service provider as defined by  
17 and pursuant to 47 U.S.C. ss. 153(n) and 332(d).

18 (4)(3) "Commission" means the Florida Public Service  
19 Commission.

20 (5)(4) "Competitive local exchange telecommunications  
21 company" means any company certificated by the commission to  
22 provide local exchange telecommunications services in this  
23 state on or after July 1, 1995.

24 (6)(5) "Corporation" includes a corporation, company,  
25 association, or joint stock association.

26 (7)(6) "Intrastate interexchange telecommunications  
27 company" means any entity that provides intrastate  
28 interexchange telecommunications services.

29 (8)(7) "Local exchange telecommunications company"  
30 means any company certificated by the commission to provide  
31



1 | local exchange telecommunications service in this state on or  
2 | before June 30, 1995.

3 |       ~~(9)(8)~~ "Monopoly service" means a telecommunications  
4 | service for which there is no effective competition, either in  
5 | fact or by operation of law.

6 |       ~~(10)(9)~~ "Nonbasic service" means any  
7 | telecommunications service provided by a local exchange  
8 | telecommunications company other than a basic local  
9 | telecommunications service, a local interconnection  
10 | arrangement described in s. 364.16, or a network access  
11 | service described in s. 364.163.

12 |       ~~(11)(10)~~ "Operator service" includes, but is not  
13 | limited to, billing or completion of third-party,  
14 | person-to-person, collect, or calling card or credit card  
15 | calls through the use of a live operator or automated  
16 | equipment.

17 |       ~~(12)(11)~~ "Operator service provider" means a person  
18 | who furnishes operator service through a call aggregator.

19 |       ~~(13)(12)~~ "Service" is to be construed in its broadest  
20 | and most inclusive sense. The term "service" does not include  
21 | broadband service or voice-over-Internet protocol service for  
22 | purposes of regulation by the commission. Nothing herein shall  
23 | affect the rights and obligations of any entity related to the  
24 | payment of switched network access rates or other intercarrier  
25 | compensation, if any, related to voice-over-Internet protocol  
26 | service. Notwithstanding s. 364.013, and the exemption of  
27 | services pursuant to this subsection, the commission may  
28 | arbitrate, enforce, or approve interconnection agreements, and  
29 | resolve disputes as provided by 47 U.S.C. ss. 251 and 252, or  
30 | any other applicable federal law or regulation. With respect  
31 | to the services exempted in this subsection, regardless of the

1 technology, the duties of a local exchange telecommunications  
2 company are only those that the company is obligated to extend  
3 or provide under applicable federal law and regulations.

4 ~~(14)~~(13) "Telecommunications company" includes every  
5 corporation, partnership, and person and their lessees,  
6 trustees, or receivers appointed by any court whatsoever, and  
7 every political subdivision in the state, offering two-way  
8 telecommunications service to the public for hire within this  
9 state by the use of a telecommunications facility. The term  
10 "telecommunications company" does not include:

11 (a) An entity which provides a telecommunications  
12 facility exclusively to a certificated telecommunications  
13 company;

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

18 (c) A commercial mobile radio service provider;

19 (d) A facsimile transmission service;

20 (e) A private computer data network company not  
21 offering service to the public for hire;

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

24 (g) An intrastate interexchange telecommunications  
25 company.

26  
27 However, each commercial mobile radio service provider and  
28 each intrastate interexchange telecommunications company shall  
29 continue to be liable for any taxes imposed under ~~pursuant to~~  
30 chapters 202, 203, and 212 and any fees assessed under  
31 ~~pursuant to~~ ss. 364.025 and 364.336. Each intrastate

1 interexchange telecommunications company shall continue to be  
2 subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285,  
3 364.501, 364.603, and 364.604, shall provide the commission  
4 with such current information as the commission deems  
5 necessary to contact and communicate with the company, shall  
6 continue to pay intrastate switched network access rates or  
7 other intercarrier compensation to the local exchange  
8 telecommunications company or the competitive local exchange  
9 telecommunications company for the origination and termination  
10 of interexchange telecommunications service, and shall reduce  
11 its intrastate long distance toll rates in accordance with s.  
12 364.163(2).

13 ~~(15)(14)~~ "Telecommunications facility" includes real  
14 estate, easements, apparatus, property, and routes used and  
15 operated to provide two-way telecommunications service to the  
16 public for hire within this state.

17 (16) "VoIP" means the voice-over-Internet protocol as  
18 that term is defined in federal law.

19 Section 6. Section 364.0361, Florida Statutes, is  
20 amended to read:

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

1 | provision of any voice-over-Internet protocol, regardless of  
2 | the platform, provider, or protocol, broadband or information  
3 | service. This section does not relieve a provider from any  
4 | obligations under s. 166.046 or s. 337.401.

5 |         Section 7. Paragraph (a) of subsection (3) of section  
6 | 364.10, Florida Statutes, is amended to read:

7 |             364.10 Undue advantage to person or locality  
8 | prohibited; Lifeline service.--

9 |             (3)(a) Effective September 1, 2003, any local exchange  
10 | telecommunications company authorized by the commission to  
11 | reduce its switched network access rate under ~~pursuant to~~ s.  
12 | 364.164 shall have tariffed and shall provide Lifeline service  
13 | to any otherwise eligible customer or potential customer who  
14 | meets an income eligibility test at 135 ~~125~~ percent or less of  
15 | the federal poverty income guidelines for Lifeline customers.  
16 | ~~The Such a~~ test for eligibility must augment, rather than  
17 | replace, the eligibility standards established by federal law  
18 | and based on participation in certain low-income assistance  
19 | programs. Each intrastate interexchange telecommunications  
20 | company shall, effective September 1, 2003, file a tariff  
21 | providing at a minimum the intrastate interexchange  
22 | telecommunications carrier's current Lifeline benefits and  
23 | exemptions to Lifeline customers who meet the income  
24 | eligibility test set forth in this subsection. The Office of  
25 | Public Counsel shall certify and maintain claims submitted by  
26 | a customer for eligibility under the income test authorized by  
27 | this subsection.

28 |         Section 8. Section 364.502, Florida Statutes, is  
29 | repealed.

30 |         Section 9. Subsection (1) of section 364.335, Florida  
31 | Statutes, is amended to read:

1           364.335 Application for certificate.--

2           (1) Each applicant for a certificate shall:

3           (a) Provide all information required by rule or order  
4 of the commission, which may include a detailed inquiry into  
5 the ability of the applicant to provide service, a detailed  
6 inquiry into the territory and facilities involved, and a  
7 detailed inquiry into the existence of service from other  
8 sources within geographical proximity to the territory applied  
9 for.

10          (b) File with the commission schedules showing all  
11 rates for service of every kind furnished by it and all rules  
12 and contracts relating to such service.

13          (c) File the application fee required by the  
14 commission in an amount not to exceed ~~\$500~~\$250. Such fees  
15 shall be deposited in accordance with s. 350.113.

16          (d) Submit an affidavit that the applicant has caused  
17 notice of its application to be given to such persons and in  
18 such manner as may be prescribed by commission rule.

19          Section 10. Section 364.336, Florida Statutes, is  
20 amended to read:

21          364.336 Regulatory assessment fees.--Notwithstanding  
22 any provisions of law to the contrary, each telecommunications  
23 company licensed or operating under this chapter, for any part  
24 of the preceding 6-month period, shall pay to the commission,  
25 within 30 days following the end of each 6-month period, a fee  
26 that may not exceed 0.25 percent annually of its gross  
27 operating revenues derived from intrastate business, except,  
28 for purposes of this section and the fee specified in s.  
29 350.113(3), any amount paid to another telecommunications  
30 company for the use of any telecommunications network shall be  
31 deducted from the gross operating revenue for purposes of

1 computing the fee due. The commission shall by rule assess a  
2 minimum fee in an amount up to \$1,000. The minimum amount may  
3 vary depending on the type of service provided by the  
4 telecommunications company, and shall, to the extent  
5 practicable, be related to the cost of regulating such type of  
6 company. Differences, if any, between the amount paid in any  
7 6-month period and the amount actually determined by the  
8 commission to be due shall, upon motion by the commission, be  
9 immediately paid or refunded. Fees under this section may not  
10 be less than \$50 annually. Such fees shall be deposited in  
11 accordance with s. 350.113. The commission may by rule  
12 establish criteria for payment of the regulatory assessment  
13 fee on an annual basis rather than on a semiannual basis.

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

16 196.012 Definitions.--For the purpose of this chapter,  
17 the following terms are defined as follows, except where the  
18 context clearly indicates otherwise:

19 (6) Governmental, municipal, or public purpose or  
20 function shall be deemed to be served or performed when the  
21 lessee under any leasehold interest created in property of the  
22 United States, the state or any of its political subdivisions,  
23 or any municipality, agency, special district, authority, or  
24 other public body corporate of the state is demonstrated to  
25 perform a function or serve a governmental purpose which could  
26 properly be performed or served by an appropriate governmental  
27 unit or which is demonstrated to perform a function or serve a  
28 purpose which would otherwise be a valid subject for the  
29 allocation of public funds. For purposes of the preceding  
30 sentence, an activity undertaken by a lessee which is  
31 permitted under the terms of its lease of real property

1 designated as an aviation area on an airport layout plan which  
2 has been approved by the Federal Aviation Administration and  
3 which real property is used for the administration, operation,  
4 business offices and activities related specifically thereto  
5 in connection with the conduct of an aircraft full service  
6 fixed base operation which provides goods and services to the  
7 general aviation public in the promotion of air commerce shall  
8 be deemed an activity which serves a governmental, municipal,  
9 or public purpose or function. Any activity undertaken by a  
10 lessee which is permitted under the terms of its lease of real  
11 property designated as a public airport as defined in s.  
12 332.004(14) by municipalities, agencies, special districts,  
13 authorities, or other public bodies corporate and public  
14 bodies politic of the state, a spaceport as defined in s.  
15 331.303(19), or which is located in a deepwater port  
16 identified in s. 403.021(9)(b) and owned by one of the  
17 foregoing governmental units, subject to a leasehold or other  
18 possessory interest of a nongovernmental lessee that is deemed  
19 to perform an aviation, airport, aerospace, maritime, or port  
20 purpose or operation shall be deemed an activity that serves a  
21 governmental, municipal, or public purpose. The use by a  
22 lessee, licensee, or management company of real property or a  
23 portion thereof as a convention center, visitor center, sports  
24 facility with permanent seating, concert hall, arena, stadium,  
25 park, or beach is deemed a use that serves a governmental,  
26 municipal, or public purpose or function when access to the  
27 property is open to the general public with or without a  
28 charge for admission. If property deeded to a municipality by  
29 the United States is subject to a requirement that the Federal  
30 Government, through a schedule established by the Secretary of  
31 the Interior, determine that the property is being maintained

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



1 s. 196.199, unless the telecommunications services are  
2 provided by the operator of a public-use airport, as defined  
3 in s. 332.004, for the operator's provision of  
4 telecommunications services for the airport or its tenants,  
5 concessionaires, or licensees, or unless the  
6 telecommunications services are provided by a public hospital.  
7 However, property that is being used to provide such  
8 telecommunications services on or before October 1, 1997,  
9 shall remain exempt, but such exemption expires October 1,  
10 2004.

11 Section 12. Paragraph (b) of subsection (1) of section  
12 199.183, Florida Statutes, is amended to read:

13 199.183 Taxpayers exempt from annual and nonrecurring  
14 taxes.--

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

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

1 operator's provision of telecommunications services for the  
2 airport or its tenants, concessionaires, or licensees, and  
3 intangible personal property related to the provision of ~~such~~  
4 telecommunications services provided by a public hospital, are  
5 exempt from taxation under this chapter.

6 Section 13. Subsection (6) of section 212.08, Florida  
7 Statutes, is amended to read:

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

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

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

1 | this subsection includes transactions taxable under this  
2 | chapter which are for use by the operator of a public-use  
3 | airport, as defined in s. 332.004, in providing such  
4 | telecommunications services for the airport or its tenants,  
5 | concessionaires, or licensees, or which are for use by a  
6 | public hospital for the provision of such telecommunications  
7 | services.

8 |         Section 14. Subsection (8) of section 290.007, Florida  
9 | Statutes, is amended to read:

10 |             290.007 State incentives available in enterprise  
11 | zones.--The following incentives are provided by the state to  
12 | encourage the revitalization of enterprise zones:

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

23 |         Section 15. Subsection (3) of section 350.0605,  
24 | Florida Statutes, is amended to read:

25 |             350.0605 Former commissioners and employees;  
26 | representation of clients before commission.--

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

1 | by the commission, from a business entity which, directly or  
2 | indirectly, is an affiliate or subsidiary of a public utility  
3 | regulated by the commission or is an actual business  
4 | competitor of a local exchange company or public utility  
5 | regulated by the commission and is otherwise exempt from  
6 | regulation by the commission under ss. 364.02(14) ~~364.02(13)~~  
7 | and 366.02(1), or from a business entity or trade association  
8 | that has been a party to a commission proceeding within the 2  
9 | years preceding the member's termination of service on the  
10 | commission. This subsection applies only to members of the  
11 | Florida Public Service Commission who are appointed or  
12 | reappointed after May 10, 1993.

13 |         Section 16. Subsection (4) of section 364.602, Florida  
14 | Statutes, is amended to read:

15 |             364.602 Definitions.--For purposes of this part:

16 |             (4) "Originating party" means any person, firm,  
17 | corporation, or other entity, including a telecommunications  
18 | company or a billing clearinghouse, that provides any  
19 | telecommunications service or information service to a  
20 | customer or bills a customer through a billing party, except  
21 | the term "originating party" does not include any entity  
22 | specifically exempted from the definition of  
23 | "telecommunications company" as provided in s. 364.02(14) ~~s.~~  
24 | ~~364.02(13)~~.

25 |         Section 17. Subsection (5) of section 489.103, Florida  
26 | Statutes, is amended to read:

27 |             489.103 Exemptions.--This part does not apply to:

28 |             (5) Public utilities, including special gas districts  
29 | as defined in chapter 189, telecommunications companies as  
30 | defined in s. 364.02(14) ~~s. 364.02(13)~~ and natural gas  
31 | transmission companies as defined in s. 368.103(4), on

1 construction, maintenance, and development work performed by  
2 their employees, which work, including, but not limited to,  
3 work on bridges, roads, streets, highways, or railroads, is  
4 incidental to their business. The board shall define, by rule,  
5 the term "incidental to their business" for purposes of this  
6 subsection.

7 Section 18. This act may not be construed to limit the  
8 rights of local government or the duties of providers of cable  
9 service to comply with any and all requirements of federal,  
10 state, or local law, including, but not limited to, 47 U.S.C.  
11 s.541, s. 166.046, and s. 337.401.

12 Section 19. Subsection (4) of section 364.051, Florida  
13 Statutes, is amended to read:

14 364.051 Price regulation.--

15 (4)(a) ~~Notwithstanding the provisions of~~ subsection  
16 (2), any local exchange telecommunications company that  
17 believes circumstances have changed substantially to justify  
18 any increase in the rates for basic local telecommunications  
19 services may petition the commission for a rate increase, but  
20 the commission shall grant the ~~such~~ petition only after an  
21 opportunity for a hearing and a compelling showing of changed  
22 circumstances. The costs and expenses of any government  
23 program or project required in part II ~~may shall~~ not be  
24 recovered under this subsection unless the ~~such~~ costs and  
25 expenses are incurred in the absence of a bid and subject to  
26 carrier-of-last-resort obligations as provided for in part II.  
27 The commission shall act upon the ~~any such~~ petition within 120  
28 days after ~~of~~ its filing.

29 (b) For purposes of this section, evidence of damage  
30 occurring to the lines, plants, or facilities of a local  
31 exchange telecommunications company that is subject to the

1 carrier-of-last-resort obligations, which damage is the result  
2 of a tropical system occurring after June 1, 2005, and named  
3 by the National Hurricane Center, constitutes a compelling  
4 showing of changed circumstances.

5 1. A company may file a petition to recover its  
6 intrastate costs and expenses relating to repairing,  
7 restoring, or replacing the lines, plants, or facilities  
8 damaged by a named tropical system.

9 2. The commission shall verify the intrastate costs  
10 and expenses submitted by the company in support of its  
11 petition.

12 3. The company must show and the commission shall  
13 determine whether the intrastate costs and expenses are  
14 reasonable under the circumstances for the named tropical  
15 system.

16 4. A company having a storm-reserve fund may recover  
17 tropical-system-related costs and expenses from its customers  
18 only in excess of any amount available in the storm-reserve  
19 fund.

20 5. The commission may determine the amount of any  
21 increase that the company may charge its customers, but the  
22 charge per line item may not exceed 50 cents per month per  
23 customer line for a period of not more than 12 months.

24 6. The commission may order the company to add an  
25 equal line-item charge per access line to the billing  
26 statement of the company's retail basic local  
27 telecommunications service customers, its retail nonbasic  
28 telecommunications service customers, and, to the extent the  
29 commission determines appropriate, its wholesale loop  
30 unbundled network element customers. At the end of the  
31 collection period, the commission shall verify that the

1 collected amount does not exceed the amount authorized by the  
2 order. If collections exceed the ordered amount, the  
3 commission shall order the company to refund the excess.

4 7. In order to qualify for filing a petition under  
5 this paragraph, a company with one million or more access  
6 lines, but fewer than three million access lines, must have  
7 tropical-system-related costs and expenses exceeding \$1.5  
8 million, and a company with three million or more access lines  
9 must have tropical-system-related costs and expenses of \$5  
10 million or more. A company with fewer than one million access  
11 lines is not required to meet a minimum damage threshold in  
12 order to qualify to file a petition under this paragraph.

13 8. A company may file only one petition for storm  
14 recovery in any 12-month period for the previous storm season,  
15 but the application may cover damages from more than one named  
16 tropical system.

17  
18 This paragraph is not intended to adversely affect the  
19 commission's consideration of any petition for an increase in  
20 basic rates to recover costs related to storm damage which was  
21 filed before the effective date of this act.

22 Section 20. This act shall take effect upon becoming a  
23 law.



1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3   CS/CS/SB 2068  
4                   This committee substitute provides that evidence of damage  
5                   occurring after June 1, 2005, as a result of a named tropical  
6                   system, to the lines, plant, or facilities of a local exchange  
7                   telecommunications company constitutes a change of  
8                   circumstances thereby justifying a rate increase. The  
9                   committee substitute sets forth the procedure a company must  
10                  follow to petition the commission for a rate increase that  
11                  includes meeting a threshold cost and expense amount. The  
12                  commission must verify the costs and expenses relating to  
13                  repairing, restoring, or replacing storm-related damage to the  
14                  lines, plant, or facilities of a company and find such costs  
15                  and expenses were reasonable. The commission is to determine  
16                  the amount of an increase, which is limited by the committee  
17                  substitute, and order the company to add a separate line-item  
18                  increase for certain customers.  
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