

1 A bill to be entitled

2 An act relating to regulation of communications media  
3 technology services; providing a short title; amending s.  
4 202.11, F.S.; providing a definition; amending s. 202.24,  
5 F.S.; prohibiting counties and municipalities from  
6 negotiating terms and conditions relating to cable and  
7 video services; deleting authorization to negotiate;  
8 revising application to existing ordinances or franchise  
9 agreements; amending s. 337.401, F.S.; deleting  
10 authorization for counties and municipalities to award  
11 cable service franchises and a restriction that cable  
12 service companies not operate without such a franchise;  
13 amending s. 337.4061, F.S.; revising definitions; creating  
14 ss. 610.102, 610.103, 610.104, 610.105, 610.106, 610.107,  
15 610.108, 610.109, 610.112, 610.113, 610.114, 610.115,  
16 610.116, 610.117, and 620.118, F.S.; designating the  
17 Department of State as the authorizing authority;  
18 providing definitions; requiring state authorization to  
19 provide cable and video services; providing requirements  
20 and procedures; providing for fees; providing duties and  
21 responsibilities of the Department of State; providing  
22 application procedures and requirements; providing for  
23 issuing certificates of franchise authority; providing  
24 eligibility requirements and criteria for a certificate;  
25 providing for amending a certificate; providing for  
26 transferability of certificates; providing for termination  
27 of certificates under certain circumstances; providing for  
28 challenging a department rejection of an application;

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29 providing that the department shall function in a  
30 ministerial capacity for certain purposes; providing for  
31 an application form; providing for an application fee;  
32 requiring certain information updates; providing for a  
33 processing fee; providing for cancellation upon notice  
34 that information updates and processing fees are not  
35 received; providing for an opportunity to cure; providing  
36 for transfer of such fees to the Department of Agriculture  
37 and Consumer Services; requiring the department to  
38 maintain a separate account for cable franchise revenues;  
39 providing for fees to the Department of State for certain  
40 activities; prohibiting the department from imposing  
41 additional taxes, fees, or charges on a cable or video  
42 service provider to issue a certificate; prohibiting  
43 imposing buildout, construction, and deployment  
44 requirements on a certificateholder; requiring  
45 certificateholders to make cable and video service  
46 available at certain public buildings under certain  
47 circumstances; imposing certain customer service  
48 requirements on cable service providers; requiring the  
49 Department of Agriculture and Consumer Services to receive  
50 customer service complaints; requiring provision of  
51 public, educational, and governmental access channels or  
52 capacity equivalent; providing criteria, requirements, and  
53 procedures; providing exceptions; providing  
54 responsibilities of municipalities and counties relating  
55 to such channels; providing for enforcement; providing  
56 requirements for and limitations on counties and

57 municipalities relating to access to public right-of-way;  
58 prohibiting counties and municipalities from imposing  
59 additional requirements on certificateholders; authorizing  
60 counties and municipalities to require permits of  
61 certificateholders relating to public right-of-way;  
62 providing permit criteria and requirements; prohibiting  
63 discrimination among cable and video service subscribers;  
64 providing for enforcement; providing requirements for a  
65 request for enforcement; requiring the department to  
66 engage certain parties in nonbinding mediation under  
67 certain circumstances; providing for filing a complaint in  
68 court; providing for a period of time to cure certain  
69 noncompliance; providing for an award of costs and  
70 attorney's fees; providing for determinations of  
71 violations; providing for enforcement of compliance by  
72 certificateholders; providing requirements for cable  
73 service providers under certain court orders; providing  
74 for payment by nonincumbent certificateholders of certain  
75 amounts to municipalities and counties under certain  
76 circumstances; providing procedures for payment of such  
77 amounts; providing service requirements for nonincumbent  
78 certificateholders; authorizing separate statement of  
79 certain fees on a customer bill; preserving certain rights  
80 of nonincumbent service providers; authorizing  
81 certificateholders to intervene in certain court actions;  
82 requiring the Office of Program Policy Analysis and  
83 Government Accountability to report to the Legislature on  
84 the status of competition in the cable and video service

85 industry; providing report requirements; requiring the  
86 Department of Agriculture and Consumer Services to make  
87 recommendations to the Legislature; providing duties of  
88 the Department of State; providing severability; amending  
89 ss. 350.81 and 364.0361, F.S.; conforming cross-  
90 references; amending s. 364.051, F.S.; deleting provisions  
91 under which certain telecommunications companies may elect  
92 alternative regulation; amending s. 364.10, F.S.;  
93 providing requirements for enrolling certain persons in  
94 the Lifeline service program; requiring the Public Service  
95 Commission to adopt rules by a specified date; requiring  
96 the commission, the Department of Children and Family  
97 Services, and the Office of Public Counsel to enter into a  
98 memorandum of understanding of respective duties under the  
99 Lifeline service program; amending s. 364.163, F.S.;  
100 providing for a cap on certain switched network access  
101 service rates; deleting a time period in which intrastate  
102 access rates are capped; prohibiting interexchange  
103 telecommunications companies from instituting any  
104 intrastate connection fee; deleting provisions for  
105 regulatory oversight of intrastate access rates; amending  
106 s. 364.385, F.S.; providing for continuing effect of  
107 certain rates and charges approved by the Public Service  
108 Commission; providing for an exception; repealing s.  
109 166.046, F.S., relating to definitions and minimum  
110 standards for cable television franchises imposed upon  
111 counties and municipalities; repealing s. 364.164, F.S.,  
112 relating to competitive market enhancement; providing an

113 effective date.

114

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

116

117 Section 1. This act may be cited as the "Consumer Choice  
 118 Act of 2007."

119 Section 2. Subsection (24) is added to section 202.11,  
 120 Florida Statutes, to read:

121 202.11 Definitions.--As used in this chapter:

122 (24) "Video service" has the same meaning as that provided  
 123 in s. 610.103.

124 Section 3. Paragraphs (a) and (c) of subsection (2) of  
 125 section 202.24, Florida Statutes, are amended to read:

126 202.24 Limitations on local taxes and fees imposed on  
 127 dealers of communications services.--

128 (2)(a) Except as provided in paragraph (c), each public  
 129 body is prohibited from:

130 1. Levying on or collecting from dealers or purchasers of  
 131 communications services any tax, charge, fee, or other  
 132 imposition on or with respect to the provision or purchase of  
 133 communications services.

134 2. Requiring any dealer of communications services to  
 135 enter into or extend the term of a franchise or other agreement  
 136 that requires the payment of a tax, charge, fee, or other  
 137 imposition.

138 3. Adopting or enforcing any provision of any ordinance or  
 139 agreement to the extent that such provision obligates a dealer  
 140 of communications services to charge, collect, or pay to the

141 public body a tax, charge, fee, or other imposition.

142

143 Municipalities and counties may not ~~Each municipality and county~~  
 144 ~~retains authority to negotiate all terms and conditions of a~~  
 145 ~~cable service franchise allowed by federal and state law except~~  
 146 those terms and conditions related to franchise fees or ~~and~~ the  
 147 definition of gross revenues or other definitions or  
 148 methodologies related to the payment or assessment of franchise  
 149 fees on providers of cable or video services.

150 (c) This subsection does not apply to:

151 1. Local communications services taxes levied under this  
 152 chapter.

153 2. Ad valorem taxes levied pursuant to chapter 200.

154 3. Occupational license taxes levied under chapter 205.

155 4. "911" service charges levied under chapter 365.

156 5. Amounts charged for the rental or other use of property  
 157 owned by a public body which is not in the public rights-of-way  
 158 to a dealer of communications services for any purpose,  
 159 including, but not limited to, the placement or attachment of  
 160 equipment used in the provision of communications services.

161 6. Permit fees of general applicability which are not  
 162 related to placing or maintaining facilities in or on public  
 163 roads or rights-of-way.

164 7. Permit fees related to placing or maintaining  
 165 facilities in or on public roads or rights-of-way pursuant to s.  
 166 337.401.

167 8. Any in-kind requirements, institutional networks, or  
 168 contributions for, or in support of, the use or construction of

169 public, educational, or governmental access facilities allowed  
 170 under federal law and imposed on providers of cable or video  
 171 service pursuant to any existing ordinance or an existing  
 172 franchise agreement granted by each municipality or county,  
 173 under which ordinance or franchise agreement service is provided  
 174 prior to July 1, 2007, or as permitted under chapter 610.

175 Nothing in this subparagraph shall prohibit the ability of  
 176 providers of cable or video service to recover such expenses as  
 177 allowed under federal law.

178 9. Special assessments and impact fees.

179 10. Pole attachment fees that are charged by a local  
 180 government for attachments to utility poles owned by the local  
 181 government.

182 11. Utility service fees or other similar user fees for  
 183 utility services.

184 12. Any other generally applicable tax, fee, charge, or  
 185 imposition authorized by general law on July 1, 2000, which is  
 186 not specifically prohibited by this subsection or included as a  
 187 replaced revenue source in s. 202.20.

188 Section 4. Paragraphs (a), (b), (e), and (f) of subsection  
 189 (3) of section 337.401, Florida Statutes, are amended to read:

190 337.401 Use of right-of-way for utilities subject to  
 191 regulation; permit; fees.--

192 (3)(a)~~1-~~ Because of the unique circumstances applicable to  
 193 providers of communications services, including, but not limited  
 194 to, the circumstances described in paragraph (e) and the fact  
 195 that federal and state law require the nondiscriminatory  
 196 treatment of providers of telecommunications services, and

197 | because of the desire to promote competition among providers of  
198 | communications services, it is the intent of the Legislature  
199 | that municipalities and counties treat providers of  
200 | communications services in a nondiscriminatory and competitively  
201 | neutral manner when imposing rules or regulations governing the  
202 | placement or maintenance of communications facilities in the  
203 | public roads or rights-of-way. Rules or regulations imposed by a  
204 | municipality or county relating to providers of communications  
205 | services placing or maintaining communications facilities in its  
206 | roads or rights-of-way must be generally applicable to all  
207 | providers of communications services and, notwithstanding any  
208 | other law, may not require a provider of communications  
209 | services, ~~except as otherwise provided in subparagraph 2.,~~ to  
210 | apply for or enter into an individual license, franchise, or  
211 | other agreement with the municipality or county as a condition  
212 | of placing or maintaining communications facilities in its roads  
213 | or rights-of-way. In addition to other reasonable rules or  
214 | regulations that a municipality or county may adopt relating to  
215 | the placement or maintenance of communications facilities in its  
216 | roads or rights-of-way under this subsection, a municipality or  
217 | county may require a provider of communications services that  
218 | places or seeks to place facilities in its roads or rights-of-  
219 | way to register with the municipality or county and to provide  
220 | the name of the registrant; the name, address, and telephone  
221 | number of a contact person for the registrant; the number of the  
222 | registrant's current certificate of authorization issued by the  
223 | Florida Public Service Commission, or the Federal Communications  
224 | Commission, or the Department of State; and proof of insurance



225 or self-insuring status adequate to defend and cover claims.

226 ~~2. Notwithstanding the provisions of subparagraph 1., a~~  
227 ~~municipality or county may, as provided by 47 U.S.C. s. 541,~~  
228 ~~award one or more franchises within its jurisdiction for the~~  
229 ~~provision of cable service, and a provider of cable service~~  
230 ~~shall not provide cable service without such franchise. Each~~  
231 ~~municipality and county retains authority to negotiate all terms~~  
232 ~~and conditions of a cable service franchise allowed by federal~~  
233 ~~law and s. 166.046, except those terms and conditions related to~~  
234 ~~franchise fees and the definition of gross revenues or other~~  
235 ~~definitions or methodologies related to the payment or~~  
236 ~~assessment of franchise fees and permit fees as provided in~~  
237 ~~paragraph (c) on providers of cable services. A municipality or~~  
238 ~~county may exercise its right to require from providers of cable~~  
239 ~~service in kind requirements, including, but not limited to,~~  
240 ~~institutional networks, and contributions for, or in support of,~~  
241 ~~the use or construction of public, educational, or governmental~~  
242 ~~access facilities to the extent permitted by federal law. A~~  
243 ~~provider of cable service may exercise its right to recover any~~  
244 ~~such expenses associated with such in kind requirements, to the~~  
245 ~~extent permitted by federal law.~~

246 (b) Registration described in paragraph ~~subparagraph~~ (a)~~1-~~  
247 does not establish a right to place or maintain, or priority for  
248 the placement or maintenance of, a communications facility in  
249 roads or rights-of-way of a municipality or county. Each  
250 municipality and county retains the authority to regulate and  
251 manage municipal and county roads or rights-of-way in exercising  
252 its police power. Any rules or regulations adopted by a

253 municipality or county which govern the occupation of its roads  
254 or rights-of-way by providers of communications services must be  
255 related to the placement or maintenance of facilities in such  
256 roads or rights-of-way, must be reasonable and  
257 nondiscriminatory, and may include only those matters necessary  
258 to manage the roads or rights-of-way of the municipality or  
259 county.

260 (e) The authority of municipalities and counties to  
261 require franchise fees from providers of communications  
262 services, with respect to the provision of communications  
263 services, is specifically preempted by the state, ~~except as~~  
264 ~~otherwise provided in subparagraph (a)2.~~, because of unique  
265 circumstances applicable to providers of communications services  
266 when compared to other utilities occupying municipal or county  
267 roads or rights-of-way. Providers of communications services may  
268 provide similar services in a manner that requires the placement  
269 of facilities in municipal or county roads or rights-of-way or  
270 in a manner that does not require the placement of facilities in  
271 such roads or rights-of-way. Although similar communications  
272 services may be provided by different means, the state desires  
273 to treat providers of communications services in a  
274 nondiscriminatory manner and to have the taxes, franchise fees,  
275 and other fees paid by providers of communications services be  
276 competitively neutral. Municipalities and counties retain all  
277 existing authority, if any, to collect franchise fees from users  
278 or occupants of municipal or county roads or rights-of-way other  
279 than providers of communications services, and the provisions of  
280 this subsection shall have no effect upon this authority. The

281 provisions of this subsection do not restrict the authority, if  
 282 any, of municipalities or counties or other governmental  
 283 entities to receive reasonable rental fees based on fair market  
 284 value for the use of public lands and buildings on property  
 285 outside the public roads or rights-of-way for the placement of  
 286 communications antennas and towers.

287 (f) Except as expressly allowed or authorized by general  
 288 law and except for the rights-of-way permit fees subject to  
 289 paragraph (c), a municipality or county may not levy on a  
 290 provider of communications services a tax, fee, or other charge  
 291 or imposition for operating as a provider of communications  
 292 services within the jurisdiction of the municipality or county  
 293 which is in any way related to using its roads or rights-of-way.  
 294 A municipality or county may not require or solicit in-kind  
 295 compensation, except as otherwise provided in s. 202.24(2)(c)8.  
 296 or s. 610.109 ~~subparagraph (a)2.~~ Nothing in this paragraph shall  
 297 impair any ordinance or agreement in effect on May 22, 1998, or  
 298 any voluntary agreement entered into subsequent to that date,  
 299 which provides for or allows in-kind compensation by a  
 300 telecommunications company.

301 Section 5. Section 337.4061, Florida Statutes, is amended  
 302 to read:

303 337.4061 Definitions; unlawful use of state-maintained  
 304 road right-of-way by nonfranchised cable and video ~~television~~  
 305 services.--

306 (1) As used in this section, the term:

307 (a) "Cable service" means:

308 1. The one-way transmission to subscribers of video

309 programming or any other programming service; and

310 2. Subscriber interaction, if any, which is required for  
311 the selection of such video programming or other programming  
312 service.

313 (b) "Cable system" means a facility, consisting of a set  
314 of closed transmission paths and associated signal generation,  
315 reception, and control equipment that is designed to provide  
316 cable service which includes video programming and which is  
317 provided to multiple subscribers within a community, but such  
318 term does not include:

319 1. A facility that serves only to retransmit the  
320 television signals of one or more television broadcast stations;

321 2. A facility that serves only subscribers in one or more  
322 multiple-unit dwellings under common ownership, control, or  
323 management, unless such facility or facilities use any public  
324 right-of-way;

325 3. A facility that serves subscribers without using any  
326 public right-of-way.

327 4.3- A facility of a common carrier that is subject, in  
328 whole or in part, to the provisions of 47 U.S.C. ss. 201 et  
329 seq., except the specific bandwidths or wavelengths used by that  
330 such facility shall be considered a cable system only to the  
331 extent such bandwidths or wavelengths are facility is used in  
332 the transmission of video programming directly to subscribers,  
333 unless the extent of such use is solely to provide interactive  
334 on-demand services, in which case the use of such bandwidths or  
335 wavelengths is not a cable system; or

336 5.4- Any facilities of any electric utility used solely

337 for operating its electric utility systems.

338 (c) "Franchise" means an initial authorization or renewal  
 339 thereof issued by a franchising authority, whether such  
 340 authorization is designated as a franchise, permit, license,  
 341 resolution, contract, certificate, agreement, or otherwise,  
 342 which authorizes the construction or operation of a cable system  
 343 or video service provider network facilities.

344 (d) "Franchising authority" means any governmental entity  
 345 empowered by federal, state, or local law to grant a franchise.

346 (e) "Person" means an individual, partnership,  
 347 association, joint stock company, trust, corporation, or  
 348 governmental entity.

349 (f) "Video programming" means programming provided by or  
 350 generally considered comparable to programming provided by a  
 351 television broadcast station or cable system.

352 (g) "Video service" has the same meaning as that provided  
 353 in s. 610.103.

354 (2) It is unlawful to use the right-of-way of any state-  
 355 maintained road, including appendages thereto, and also  
 356 including, but not limited to, rest areas, wayside parks, boat-  
 357 launching ramps, weigh stations, and scenic easements, to  
 358 provide for cable or video service over facilities ~~purposes~~  
 359 within a geographic area subject to a valid existing franchise  
 360 for cable or video service, unless the cable or video service  
 361 provider ~~system~~ using such right-of-way holds a franchise from a  
 362 franchise authority ~~the municipality or county~~ for the area in  
 363 which the right-of-way is located.

364 (3) A violation of this section shall be deemed a

365 violation of s. 337.406.

366 Section 6. Sections 610.102, 610.103, 610.104, 610.105,  
 367 610.106, 610.107, 610.108, 610.109, 610.112, 610.113, 610.114,  
 368 610.115, 610.116, 610.117, and 620.118, Florida Statutes, are  
 369 created to read:

370 610.102 Department of State authority to issue statewide  
 371 cable and video franchise.--The department shall be designated  
 372 as the franchising authority for a state-issued franchise for  
 373 the provision of cable or video service. A municipality or  
 374 county may not grant a new franchise for the provision of cable  
 375 or video service within its jurisdiction.

376 610.103 Definitions.--As used in ss. 610.102-610.117:

377 (1) "Cable service" means:

378 (a) The one-way transmission to subscribers of video  
 379 programming or any other programming service.

380 (b) Subscriber interaction, if any, that is required for  
 381 the selection of such video programming or other programming  
 382 service.

383 (2) "Cable service provider" means a person that provides  
 384 cable service over a cable system.

385 (3) "Cable system" means a facility consisting of a set of  
 386 closed transmission paths and associated signal generation,  
 387 reception, and control equipment that is designed to provide  
 388 cable service that includes video programming and that is  
 389 provided to multiple subscribers within a community, but such  
 390 term does not include:

391 (a) A facility that serves only to retransmit the  
 392 television signals of one or more television broadcast stations;

393 (b) A facility that serves only subscribers in one or more  
394 multiple-unit dwellings under common ownership, control, or  
395 management, unless such facility or facilities use any public  
396 right-of-way;

397 (c) A facility that serves subscribers without using any  
398 public right-of-way;

399 (d) A facility of a common carrier that is subject, in  
400 whole or in part, to the provisions of 47 U.S.C. ss. 201 et  
401 seq., except that the specific bandwidths or wavelengths over  
402 such facility shall be considered a cable system only to the  
403 extent such bandwidths or wavelengths are used in the  
404 transmission of video programming directly to subscribers,  
405 unless the extent of such use is solely to provide interactive  
406 on-demand services, in which case it is not a cable system; or

407 (e) Any facilities of any electric utility used solely for  
408 operating its electric utility systems.

409 (4) "Certificateholder" means a cable or video service  
410 provider that has been issued and holds a certificate of  
411 franchise authority from the department.

412 (5) "Department" means the Department of State.

413 (6) "Franchise" means an initial authorization or renewal  
414 of an authorization, regardless of whether the authorization is  
415 designated as a franchise, permit, license, resolution,  
416 contract, certificate, agreement, or otherwise, to construct and  
417 operate a cable system or video service provider network  
418 facilities in the public right-of-way.

419 (7) "Franchise authority" means any governmental entity  
420 empowered by federal, state, or local law to grant a franchise.

421       (8) "Incumbent cable service provider" means the cable  
422 service provider serving the largest number of cable subscribers  
423 in a particular municipal or county franchise area on July 1,  
424 2007.

425       (9) "Public right-of-way" means the area on, below, or  
426 above a public roadway, highway, street, sidewalk, alley, or  
427 waterway, including, without limitation, a municipal, county,  
428 state, district, or other public roadway, highway, street,  
429 sidewalk, alley, or waterway.

430       (10) "Video programming" means programming provided by, or  
431 generally considered comparable to programming provided by, a  
432 television broadcast station as set forth in 47 U.S.C. s.  
433 522(20).

434       (11) "Video service" means video programming services  
435 provided through wireline facilities located at least in part in  
436 the public rights-of-way without regard to delivery technology,  
437 including Internet protocol technology. This definition does not  
438 include any video programming provided by a commercial mobile  
439 service provider as defined in 47 U.S.C. s. 332(d), video  
440 programming provided via a cable service or video programming  
441 provided as part of, and via, a service that enables end users  
442 to access content, information, electronic mail, or other  
443 services offered over the Internet.

444       (12) "Video service provider" means a video programming  
445 distributor that distributes video programming services through  
446 wireline facilities located at least in part in the public  
447 rights-of-way without regard to delivery technology. This term  
448 does not include a cable service provider.



449           610.104 State authorization to provide cable or video  
450 service.--

451           (1) An entity or person seeking to provide cable or video  
452 service in this state after July 1, 2007, shall file an  
453 application for a state-issued certificate of franchise  
454 authority with the department as required by this section. An  
455 entity or person providing cable or video service under an  
456 unexpired franchise agreement with a municipality or county as  
457 of July 1, 2007, is not subject to this subsection with respect  
458 to providing service in such municipality or county until the  
459 franchise agreement expires, except as provided by subsection  
460 (2) and s. 610.105(4). An entity or person providing cable or  
461 video service may seek authorization from the department to  
462 provide service in areas where the entity or person currently  
463 does not have an existing franchise agreement as of July 1,  
464 2007.

465           (2) Beginning July 1, 2007, a cable or video service  
466 provider that is not an incumbent cable or video service  
467 provider and provides cable or video service to less than 40  
468 percent of the total cable and video service subscribers in a  
469 particular franchise area may elect to terminate an existing  
470 municipal or county franchise and seek a state-issued  
471 certificate of franchise authority by providing written notice  
472 to the Secretary of State and the affected municipality or  
473 county after July 1, 2007. The municipal or county franchise is  
474 terminated under this subsection on the date the department  
475 issues the state-issued certificate of franchise authority.

476           (3) An applicant for a state-issued certificate of

477 franchise authority to provide cable or video service shall  
 478 submit to the Department of State an application that contains:

479 (a) The official name of the cable or video service  
 480 provider.

481 (b) The street address of the principal place of business  
 482 of the cable or video service provider.

483 (c) The federal employer identification number or the  
 484 Department of State's document number.

485 (d) The name, address, and telephone number of an officer,  
 486 partner, owner, member, or manager as a contact person for the  
 487 cable or video service provider to whom questions or concerns  
 488 may be addressed.

489 (e) A duly executed affidavit signed by an officer,  
 490 partner, owner, or managing member affirming and containing:

491 1. That the applicant is fully qualified under the  
 492 provisions of this chapter to file an application and affidavit  
 493 for a certificate of franchise authority.

494 2. That the applicant has filed or will timely file with  
 495 the Federal Communications Commission all forms required by that  
 496 agency in advance of offering cable or video service in this  
 497 state.

498 3. That the applicant agrees to comply with all applicable  
 499 federal and state laws and regulations, to the extent such state  
 500 laws and rules are not in conflict with or superseded by the  
 501 provisions of this chapter or other applicable state law.

502 4. That the applicant agrees to comply with all state laws  
 503 and rules and municipal and county ordinances and regulations  
 504 regarding the placement and maintenance of communications

505 facilities in the public rights-of-way that are generally  
506 applicable to providers of communications services in accordance  
507 with s. 337.401.

508 5. A description of the service area for which the  
509 applicant seeks the certificate of franchise authority, which  
510 need not be coextensive with municipal, county, or other  
511 political boundaries.

512 6. The location of the applicant's principal place of  
513 business, the names of the applicant's principal executive  
514 officers, and a physical address sufficient for the purposes of  
515 chapter 48.

516 7. That the applicant will file with the department a  
517 notice of commencement of service within 5 business days after  
518 first providing service in each area described in subparagraph  
519 5.

520 8. A statement affirming that the applicant will notify  
521 the department of any change of address or contact person.

522 (4) Before the 10th business day after the department  
523 receives the application, the department shall notify the  
524 applicant whether the application and affidavit described in  
525 subsection (3) are complete. If the department rejects the  
526 application and affidavit, the department shall specify with  
527 particularity the reasons for the rejection and permit the  
528 applicant to amend the application or affidavit to cure any  
529 deficiency. The department shall act upon the amended  
530 application or affidavit within 10 business days after the  
531 department's receipt of the amended application or affidavit.

532 (5) The department shall issue a certificate of franchise

533 authority to the applicant before the 15th business day after  
534 receipt of an accepted application. The certificate of franchise  
535 authority issued by the department shall contain:

536 (a) The name of the certificateholder and its  
537 identification number.

538 (b) A grant of authority to provide cable or video service  
539 as requested in the application.

540 (c) A grant of authority to construct, maintain, and  
541 operate facilities through, upon, over, and under any public  
542 right-of-way or waters.

543 (d) A statement that the grant of authority is subject to  
544 lawful operation of the cable or video service by the applicant  
545 or its successor in interest.

546 (e) A statement that describes the service area for which  
547 this certificate of authority applies.

548 (f) A statement that includes the effective date of the  
549 commencement of this authority.

550 (6) If the department fails to act on the accepted  
551 application within 30 business days after receiving the accepted  
552 application, the application shall be deemed approved by the  
553 department without further action.

554 (7) A certificateholder that seeks to include additional  
555 service areas in its current certificate shall file an amendment  
556 to the certificate with the department. Such amendment shall  
557 specify the name and address of the certificateholder, the new  
558 service area or areas to be served, and the effective date of  
559 commencement of operations in the new service area or areas.  
560 Such amendment shall be filed with the department within 5

561 business days after first providing service in each such  
562 additional area.

563 (8) The certificate of franchise authority issued by the  
564 department is fully transferable to any successor in interest to  
565 the applicant to which the certificate is initially granted. A  
566 notice of transfer shall be filed with the department and the  
567 relevant municipality or county within 14 business days  
568 following the completion of such transfer.

569 (9) The certificate of franchise authority issued by the  
570 department may be terminated by the cable or video service  
571 provider by submitting notice to the department.

572 (10) An applicant may challenge a rejection of an  
573 application by the department in a court of competent  
574 jurisdiction through a petition for mandamus.

575 (11) In executing the provisions of this section, the  
576 department shall function in a ministerial capacity accepting  
577 information contained in the application and affidavit at face  
578 value. The applicant shall ensure continued compliance with all  
579 applicable business formation, registration, and taxation  
580 provisions of law.

581 (12) The application shall be accompanied by a one-time  
582 fee of \$10,000.

583 (13) Beginning 5 years after approval of the  
584 certificateholder's initial certificate of franchise issued by  
585 the department, and every 5 years thereafter, the  
586 certificateholder shall update the information contained in the  
587 original application for a certificate of franchise. At the time  
588 of filing the information update, the certificateholder shall

589 pay a processing fee of \$1,000. Any certificateholder that fails  
590 to file the updated information and pay the processing fee on  
591 the 5-year anniversary dates shall be subject to cancellation of  
592 its state-issued certificate of franchise authority if, upon  
593 notice given to the certificateholder at its last address on  
594 file with the department, the certificateholder fails to file  
595 the updated information and pay the processing fee within 30  
596 days after the date notice was mailed. The application and  
597 processing fees imposed in this section shall be paid to the  
598 Department of State for deposit into the Operating Trust Fund  
599 for immediate transfer by the Chief Financial Officer to the  
600 General Inspection Trust Fund of the Department of Agriculture  
601 and Consumer Services. The Department of Agriculture and  
602 Consumer Services shall maintain a separate account within the  
603 General Inspection Trust Fund to distinguish cable franchise  
604 revenues from all other funds. The application, any amendments  
605 to the certificate, or information updates must be accompanied  
606 by a fee to the Department of State equal to that for filing  
607 articles of incorporation pursuant to s. 607.0122(1).

608 610.105 Eligibility for state-issued franchise.--

609 (1) Except as provided in s. 610.104(1) and (2) and  
610 subsection (4), an incumbent cable service provider that has an  
611 existing, unexpired franchise to provide cable service with  
612 respect to a municipality or county as of July 1, 2007, is not  
613 eligible to apply for a state-issued certificate of franchise  
614 authority under this chapter as to that municipality or county  
615 until the expiration date of the existing franchise agreement.

616 (2) For purposes of this section, an incumbent cable

617 service provider will be deemed to have or have had a franchise  
618 to provide cable service in a specific municipality or county if  
619 any affiliate or successor entity of the cable service provider  
620 has or had an unexpired franchise agreement granted by that  
621 specific municipality or county as of July 1, 2007.

622 (3) The term "affiliate or successor entity" in this  
623 section refers to an entity receiving, obtaining, or operating  
624 under a franchise that directly or indirectly owns or controls,  
625 is owned or controlled by, or is under common ownership or  
626 control with the cable service provider.

627 (4) Notwithstanding subsection (1), an incumbent cable  
628 service provider may elect to terminate an existing municipal or  
629 county franchise and apply for a state-issued certificate of  
630 franchise authority with respect to such municipality or county  
631 if another cable or video service provider has been granted a  
632 state-issued certificate of franchise authority for a service  
633 area located in whole or in part within the service area covered  
634 by the existing municipal or county franchise and such  
635 certificateholder has commenced providing service in such area.  
636 The incumbent cable service provider shall provide at the time  
637 of filing its application for a state-issued certificate of  
638 franchise authority written notice of its intent to terminate  
639 its existing franchise under this subsection to the department  
640 and to the affected municipality or county. The municipal or  
641 county franchise shall be terminated under this section on the  
642 date the department issues to the incumbent cable service  
643 provider the state-issued certificate of franchise authority to  
644 provide service in such municipality or county franchise area to

645 the incumbent cable service provider.

646 610.106 Franchise fees prohibited.--Except as otherwise  
647 provided in this chapter, the department may not impose any  
648 taxes, fees, charges, or other impositions on a cable or video  
649 service provider as a condition for the issuance of a state-  
650 issued certificate of franchise authority. No municipality or  
651 county may impose any taxes, fees, charges, or other exactions  
652 on certificateholders in connection with use of public right-of-  
653 way as a condition of a certificateholder doing business in the  
654 municipality or county, or otherwise, except such taxes, fees,  
655 charges, or other exactions permitted by chapter 202 and s.  
656 337.401(6).

657 610.107 Buildout.--No franchising authority, state agency,  
658 or political subdivision may impose any buildout, system  
659 construction, or service deployment requirements on a  
660 certificateholder.

661 610.108 Customer service standards.--

662 (1) An incumbent cable service provider shall comply with  
663 customer service requirements reasonably comparable to the  
664 standards in 47 C.F.R. s. 76.309(c) until there are two or more  
665 providers offering service, excluding direct-to-home satellite  
666 service, in the incumbent service provider's relevant service  
667 area.

668 (2) Beginning on July 1, 2009, for all providers of cable  
669 service in municipalities and counties that, as of January 1,  
670 2007, have an office or department dedicated to responding to  
671 cable service quality complaints, all such complaints shall be  
672 handled on and after July 1, 2009, by the Department of



673 Agriculture and Consumer Services. Until that time, cable  
674 service quality complaints shall continue to be handled by the  
675 municipality or county. This provision shall not be construed to  
676 permit the municipality or county to impose customer service  
677 standards in conflict with this section.

678 (3) The Department of Agriculture and Consumer Services  
679 shall receive service quality complaints from customers of a  
680 certificateholder and shall address such complaints in an  
681 expeditious manner by assisting in the resolution of such  
682 complaint between the complainant and the certificateholder. The  
683 Department of Agriculture and Consumer Services shall adopt any  
684 procedural rules pursuant to ss. 120.536(1) and 120.54 necessary  
685 to implement this section.

686 610.109 Public, educational, and governmental access  
687 channels.--

688 (1) A certificateholder, not later than 12 months  
689 following a request by a municipality or county within whose  
690 jurisdiction the certificateholder is providing cable or video  
691 service, shall designate a sufficient amount of capacity on its  
692 network to allow the provision of public, educational, and  
693 governmental access channels for noncommercial programming as  
694 set forth in this section, except that a holder of a state-  
695 issued certificate of authority granted pursuant to s. 610.105  
696 shall be required to satisfy the public, educational, and  
697 government access channel capacity obligations specified in this  
698 section upon issuance of such certificate for any service area  
699 covered by such certificate that is located within the service  
700 area that was covered by the cable provider's terminated

701 franchise.

702 (2) A certificateholder shall designate a sufficient  
703 amount of capacity on its network to allow the provision of a  
704 comparable number of public, educational, and governmental  
705 access channels or capacity equivalent that a municipality or  
706 county has activated under the incumbent cable service  
707 provider's franchise agreement as of July 1, 2007. For the  
708 purposes of this section, a public, educational, or governmental  
709 channel is deemed activated if the channel is being used for  
710 public, educational, or governmental programming within the  
711 municipality for at least 10 hours per day.

712 (3) If a municipality or county did not have public,  
713 educational, or governmental access channels activated under the  
714 incumbent cable service provider's franchise agreement as of  
715 July 1, 2007, not later than 12 months following a request by  
716 the municipality or county within whose jurisdiction a  
717 certificateholder is providing cable or video service, the cable  
718 or video service provider shall furnish:

719 (a) Up to three public, educational, or governmental  
720 channels or capacity equivalent for a municipality or county  
721 with a population of at least 50,000.

722 (b) Up to two public, educational, or governmental  
723 channels or capacity equivalent for a municipality or county  
724 with a population of less than 50,000.

725 (4) Any public, educational, or governmental channel  
726 provided pursuant to this section that is not used by the  
727 municipality or county for at least 10 hours a day shall no  
728 longer be made available to the municipality or county but may

729 be programmed at the cable or video service provider's  
730 discretion. At such time as the municipality or county can  
731 certify to the cable or video service provider a schedule for at  
732 least 10 hours of daily programming, the cable or video service  
733 provider shall restore the previously lost channel but shall be  
734 under no obligation to carry that channel on a basic or analog  
735 tier.

736 (5) If a municipality or county has not used the number of  
737 access channels or capacity equivalent permitted by subsection  
738 (3), access to the additional channels or capacity equivalent  
739 allowed in subsection (3) shall be provided upon 12 month's  
740 written notice if the municipality or county meets the following  
741 standard: if a municipality or county has one active public,  
742 educational, or governmental channel and wishes to activate an  
743 additional public, educational, or governmental channel, the  
744 initial channel shall be considered to be substantially used  
745 when 12 hours are programmed on that channel each calendar day.  
746 In addition, at least 40 percent of the 12 hours of programming  
747 for each business day on average over each calendar quarter must  
748 be nonrepeat programming. Nonrepeat programming shall include  
749 the first three videocastings of a program. If a municipality or  
750 county is entitled to three public, educational, or governmental  
751 channels under subsection (3) and has in service two active  
752 public, educational, or governmental channels, each of the two  
753 active channels shall be considered to be substantially used  
754 when 12 hours are programmed on each channel each calendar day  
755 and at least 50 percent of the 12 hours of programming for each  
756 business day on average over each calendar quarter is nonrepeat

757 programming for three consecutive calendar quarters.

758 (6) The operation of any public, educational, or  
759 governmental access channel or capacity equivalent provided  
760 under this section shall be the responsibility of the  
761 municipality or county receiving the benefit of such channel or  
762 capacity equivalent, and a certificateholder bears only the  
763 responsibility for the transmission of such channel content. A  
764 certificateholder shall be responsible for providing the  
765 connectivity to each public, educational, or governmental access  
766 channel distribution point up to the first 200 feet from the  
767 certificateholder's activated cable or video transmission  
768 system.

769 (7) The municipality or county shall ensure that all  
770 transmissions, content, or programming to be transmitted over a  
771 channel or facility by a certificateholder are provided or  
772 submitted to the cable or video service provider in a manner or  
773 form that is capable of being accepted and transmitted by a  
774 provider without any requirement for additional alteration or  
775 change in the content by the provider, over the particular  
776 network of the cable or video service provider, which is  
777 compatible with the technology or protocol used by the cable or  
778 video service provider to deliver services. The provision of  
779 public, educational, or governmental content to the provider  
780 constitutes authorization for the provider to carry such  
781 content, including, at the provider's option, authorization to  
782 carry the content beyond the jurisdictional boundaries of the  
783 municipality or county.

784 (8) Where technically feasible, a certificateholder and an

785 incumbent cable service provider shall use reasonable efforts to  
786 interconnect their networks for the purpose of providing public,  
787 educational, and governmental programming. Interconnection may  
788 be accomplished by direct cable, microwave link, satellite, or  
789 other reasonable method of connection. Certificateholders and  
790 incumbent cable service providers shall negotiate in good faith  
791 and incumbent cable service providers may not withhold  
792 interconnection of public, educational, and governmental  
793 channels.

794 (9) A certificateholder is not required to interconnect  
795 for, or otherwise to transmit, public, educational, and  
796 governmental content that is branded with the logo, name, or  
797 other identifying marks of another cable or video service  
798 provider, and a municipality or county may require a cable or  
799 video service provider to remove its logo, name, or other  
800 identifying marks from public, educational, and governmental  
801 content that is to be made available to another provider.

802 (10) A court of competent jurisdiction shall have  
803 exclusive jurisdiction to enforce any requirement under this  
804 section.

805 610.112 Nondiscrimination by municipality or county.--

806 (1) A municipality or county shall allow a  
807 certificateholder to install, construct, and maintain a network  
808 within a public right-of-way and shall provide a  
809 certificateholder with open, comparable, nondiscriminatory, and  
810 competitively neutral access to the public right-of-way in  
811 accordance with the provisions of s. 337.401. All use of a  
812 public right-of-way by a certificateholder is nonexclusive.

813           (2) A municipality or county may not discriminate against  
814 a certificateholder regarding:

815           (a) The authorization or placement of a network in a  
816 public right-of-way;

817           (b) Access to a building or other property; or

818           (c) Utility pole attachment terms.

819           610.113 Limitation on local authority.--

820           (1) A municipality or county may not impose additional  
821 requirements on a certificateholder, including, but not limited  
822 to, financial, operational, and administrative requirements,  
823 except as expressly permitted by this chapter. A municipality or  
824 county may not impose on activities of a certificateholder a  
825 requirement:

826           (a) That particular business offices be located in the  
827 municipality or county;

828           (b) Regarding the filing of reports and documents with the  
829 municipality or county that are not required by state or federal  
830 law and that are not related to the use of the public right-of-  
831 way. Reports and documents other than schematics indicating the  
832 location of facilities for a specific site that are provided in  
833 the normal course of the municipality's or county's permitting  
834 process, that are authorized by s. 337.401 for communications  
835 services providers, or that are otherwise required in the normal  
836 course of such permitting process shall not be considered  
837 related to the use of the public right-of-way for communications  
838 service providers. A municipality or county may not request  
839 information concerning the capacity or technical configuration  
840 of a certificateholder's facilities;

841 (c) For the inspection of a certificateholder's business  
842 records; or

843 (d) For the approval of transfers of ownership or control  
844 of a certificateholder's business, except that a municipality or  
845 county may require a certificateholder to provide notice of a  
846 transfer within a reasonable time.

847 (2) Notwithstanding any other provision of law, a  
848 municipality or county may require the issuance of a permit in  
849 accordance with and subject to s. 337.401 to a certificateholder  
850 that is placing and maintaining facilities in or on a public  
851 right-of-way in the municipality or county. In accordance with  
852 s. 337.402, the permit may require the permitholder to be  
853 responsible, at the permitholder's expense, for any damage  
854 resulting from the issuance of such permit and for restoring the  
855 public right-of-way to its original condition before  
856 installation of such facilities. The terms of the permit shall  
857 be consistent with construction permits issued to other  
858 providers of communications services placing or maintaining  
859 communications facilities in a public right-of-way.

860 610.114 Discrimination prohibited.--

861 (1) The purpose of this section is to prevent  
862 discrimination among potential residential subscribers.

863 (2) Pursuant to 47 U.S.C. s. 541(a)(3), a  
864 certificateholder may not deny access to service to any group of  
865 potential residential subscribers because of the race or income  
866 of the residents in the local area in which such group resides.

867 (3) An affected person may seek enforcement of subsection  
868 (2) by initiating a proceeding with the Department of

869 Agriculture and Consumer Services pursuant to s. 570.544. Any  
870 request for enforcement provided to the department must contain  
871 a clear statement of the facts and the information upon which  
872 the complaint is based. The department shall provide any  
873 information specified or requested in the complaint, including  
874 supporting documents, to the appropriate certificateholder which  
875 shall have 60 days to provide a response to the department and  
876 the complainant. If the complainant is not satisfied with the  
877 response, the department shall engage in nonbinding mediation  
878 between the affected parties. If the mediation does not resolve  
879 the matter to each party's satisfaction, an affected party may  
880 file a complaint with a court of competent jurisdiction. A  
881 person may not file an action in court without having  
882 participated in a mediation of the complaint by the department.  
883 If such court finds that a certificateholder is in material  
884 noncompliance with this section, the certificateholder shall  
885 have a reasonable period of time, as specified by the court, to  
886 cure such noncompliance. The court may also award the affected  
887 person his or her reasonable costs and attorney's fees in  
888 seeking enforcement of subsection (2).

889 (4) For purposes of determining whether a  
890 certificateholder has violated subsection (2), cost, density,  
891 distance, and technological or commercial limitations shall be  
892 taken into account. Use of an alternative technology that  
893 provides comparable content, service, and functionality may not  
894 be considered a violation of subsection (2). The inability to  
895 serve an end user because a certificateholder is prohibited from  
896 placing its own facilities in a building or property is not a



897 violation of subsection (2). This section may not be construed  
 898 to authorize any buildout requirements on a certificateholder.

899 (5) The Department of Agriculture and Consumer Services  
 900 shall adopt any procedural rules pursuant to ss. 120.536(1) and  
 901 120.54 necessary to implement this section.

902 610.115 Compliance.--If a certificateholder is found by a  
 903 court of competent jurisdiction not to be in compliance with the  
 904 requirements of this chapter, the certificateholder shall have a  
 905 reasonable period of time, as specified by the court, to cure  
 906 such noncompliance.

907 610.116 Impairment; court-ordered operations.--

908 (1) If an incumbent cable service provider is required to  
 909 operate under its existing franchise and is legally prevented by  
 910 a lawfully issued order of a court of competent jurisdiction  
 911 from exercising its right to terminate its existing franchise  
 912 pursuant to the terms of s. 610.105(4), any nonincumbent  
 913 certificateholder providing cable service or video service in  
 914 whole or in part within the service area which is the subject of  
 915 the incumbent cable service provider's franchise shall also  
 916 comply with such order, but only as long as such court order  
 917 remains in effect, with the following franchise terms and  
 918 conditions as applicable to the incumbent cable service provider  
 919 in the service area:

920 (a) The nonincumbent certificateholder shall pay to the  
 921 municipality or county the lesser of:

922 1. Any prospective lump-sum or recurring per-subscriber  
 923 funding obligations to support public, educational, and  
 924 governmental access channels, institutional networks if any, or

925 other prospective franchise-required monetary grants related to  
926 public, educational, or governmental access facilities and  
927 capital costs. Prospective lump-sum payments shall be made on an  
928 equivalent per-subscriber basis calculated as follows: the  
929 amount of the prospective funding obligations divided by the  
930 number of subscribers being served by the incumbent cable  
931 service provider at the time of payment, divided by the number  
932 of months remaining in the incumbent cable service provider's  
933 franchise equals the monthly per subscriber amount to be paid by  
934 the certificateholder until the expiration or termination of the  
935 incumbent cable service provider's franchise; or

936 2. An amount equal to 1 percent of the sales price, as  
937 defined in s. 202.11(13), for the taxable monthly retail sales  
938 of cable or video programming services the nonincumbent  
939 certificateholder received from subscribers in the affected  
940 municipality or county. All definitions and exemptions under  
941 chapter 202 shall apply in the determination of taxable monthly  
942 retail sales of cable or video programming services.

943 (b) No payments shall be due under this subsection until  
944 45 days after the municipality or county notifies the respective  
945 providers and the Department of Revenue, in writing, of the  
946 appropriate per-subscriber amount. All payments made pursuant to  
947 this subsection shall be made as a part of the  
948 certificateholder's payment of communications services tax  
949 pursuant to s. 202.27, and all administrative provisions of  
950 chapter 202 shall apply to any payments made pursuant to this  
951 subsection.

952 (c) Upon request by a municipality or county, the

953 nonincumbent certificateholder shall provide within a reasonable  
954 period of time comparable, complementary basic cable or video  
955 service offerings to public K-12 schools, public libraries, or  
956 government buildings as is required in the incumbent's existing  
957 franchise, to the extent such buildings are located within 200  
958 feet of the nonincumbent certificateholder's activated video  
959 distribution plant.

960 (d) Any nonincumbent certificateholder may designate that  
961 portion of that subscriber's bill attributable to any fee  
962 imposed pursuant to this section as a separate item on the bill  
963 and recover such amount from the subscriber.

964 (2) The provisions of subsection (1) shall not alter the  
965 rights of a nonincumbent cable service or video service provider  
966 with respect to service areas designated pursuant to s.  
967 610.104(4)(d). Any certificateholder providing cable service or  
968 video service in a service area covered by the terms of an  
969 existing cable franchise that is subject to a court or other  
970 proceeding challenging the ability of an incumbent cable service  
971 provider to exercise its legal right to terminate its existing  
972 cable franchise pursuant to s. 610.105(4) shall have the right  
973 to intervene in such proceeding.

974 610.117 Reports to the Legislature.--

975 (1) The Office of Program Policy Analysis and Government  
976 Accountability shall submit to the President of the Senate, the  
977 Speaker of the House of Representatives, and the majority and  
978 minority leaders of the Senate and House of Representatives, by  
979 December 1, 2009, and December 1, 2014, a report on the status  
980 of competition in the cable and video service industry,

981 including, by each municipality and county, the number of cable  
982 and video service providers, the number of cable and video  
983 subscribers served, the number of areas served by fewer than two  
984 cable or video service providers, the trend in cable and video  
985 service prices, and the identification of any patterns of  
986 service as they impact demographic and income groups.

987 (2) By January 15, 2008, the Department of Agriculture and  
988 Consumer Services shall make recommendations to the President of  
989 the Senate, the Speaker of the House of Representatives, and the  
990 majority and minority leaders of the Senate and House of  
991 Representatives regarding the workload and staffing requirements  
992 associated with consumer complaints related to video and cable  
993 certificateholders. The Department of State shall provide to the  
994 Department of Agriculture and Consumer Services, for inclusion  
995 in the report, the workload requirements for processing the  
996 certificates of franchise authority. In addition, the Department  
997 of State shall provide the number of applications filed for  
998 cable and video certificates of franchise authority and the  
999 number of amendments received to original applications for  
1000 franchise certificate authority.

1001 610.118 Severability.--If any provision of ss. 610.102-  
1002 610.117 or the application thereof to any person or circumstance  
1003 is held invalid, such invalidity shall not affect other  
1004 provisions or application of ss. 610.102-610.117 that can be  
1005 given effect without the invalid provision or application, and  
1006 to this end the provisions of ss. 610.102-610.117 are severable.

1007 Section 7. Paragraph (a) of subsection (3) of section  
1008 350.81, Florida Statutes, is amended to read:

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1009           350.81 Communications services offered by governmental  
1010 entities.--

1011           (3) (a) A governmental entity that provides a cable service  
1012 shall comply with the Cable Communications Policy Act of 1984,  
1013 47 U.S.C. ss. 521 et seq., the regulations issued by the Federal  
1014 Communications Commission under the Cable Communications Policy  
1015 Act of 1984, 47 U.S.C. ss. 521 et seq., and all applicable state  
1016 and federal rules and regulations, including, but not limited  
1017 to, ~~s. 166.046~~ and those provisions of chapters 202, 212, and  
1018 337, and 610 that ~~which~~ apply to a provider of the services.

1019           Section 8. Section 364.0361, Florida Statutes, is amended  
1020 to read:

1021           364.0361 Local government authority; nondiscriminatory  
1022 exercise.--A local government shall treat each  
1023 telecommunications company in a nondiscriminatory manner when  
1024 exercising its authority to grant franchises to a  
1025 telecommunications company or to otherwise establish conditions  
1026 or compensation for the use of rights-of-way or other public  
1027 property by a telecommunications company. A local government may  
1028 not directly or indirectly regulate the terms and conditions,  
1029 including, but not limited to, the operating systems,  
1030 qualifications, services, service quality, service territory,  
1031 and prices, applicable to or in connection with the provision of  
1032 any voice-over-Internet protocol, regardless of the platform,  
1033 provider, or protocol, broadband or information service. This  
1034 section does not relieve a provider from any obligations under  
1035 ~~s. 166.046~~ or s. 337.401.

1036           Section 9. Subsections (6), (7), and (8) of section

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1037 364.051, Florida Statutes, are amended to read:

1038 364.051 Price regulation.--

1039 ~~(6) After a local exchange telecommunications company that~~  
1040 ~~has more than 1 million access lines in service has reduced its~~  
1041 ~~intrastate switched network access rates to parity, as defined~~  
1042 ~~in s. 364.164(5), the local exchange telecommunications~~  
1043 ~~company's retail service quality requirements that are not~~  
1044 ~~already equal to the service quality requirements imposed upon~~  
1045 ~~the competitive local exchange telecommunications companies~~  
1046 ~~shall at the company's request to the commission be no greater~~  
1047 ~~than those imposed upon competitive local exchange~~  
1048 ~~telecommunications companies unless the commission, within 120~~  
1049 ~~days after the company's request, determines otherwise. In such~~  
1050 ~~event, the commission may grant some reductions in service~~  
1051 ~~quality requirements in some or all of the company's local~~  
1052 ~~calling areas. The commission may not impose retail service~~  
1053 ~~quality requirements on competitive local exchange~~  
1054 ~~telecommunications companies greater than those existing on~~  
1055 ~~January 1, 2003.~~

1056 ~~(7) After a local exchange telecommunications company that~~  
1057 ~~has more than 1 million access lines in service has reduced its~~  
1058 ~~intrastate switched network access rates to parity, as defined~~  
1059 ~~in s. 364.164(5), the local exchange telecommunications company~~  
1060 ~~may petition the commission for regulatory treatment of its~~  
1061 ~~retail services at a level no greater than that imposed by the~~  
1062 ~~commission upon competitive local exchange telecommunications~~  
1063 ~~companies. The local exchange telecommunications company shall:~~

1064 ~~(a) Show that granting the petition is in the public~~

1065 ~~interest;~~

1066 ~~(b) Demonstrate that the competition faced by the company~~  
 1067 ~~is sufficient and sustainable to allow such competition to~~  
 1068 ~~supplant regulation by the commission; and~~

1069 ~~(c) Reduce its intrastate switched network access rates to~~  
 1070 ~~its local reciprocal interconnection rate upon the grant of the~~  
 1071 ~~petition.~~

1072

1073 ~~The commission shall act upon such a petition within 9 months~~  
 1074 ~~after its filing with the commission. The commission may not~~  
 1075 ~~increase the level of regulation for competitive local exchange~~  
 1076 ~~telecommunications companies to a level greater than that which~~  
 1077 ~~exists on the date the local exchange telecommunications company~~  
 1078 ~~files its petition.~~

1079 ~~(8) The provisions described in subsections (6) and (7)~~  
 1080 ~~shall apply to any local exchange telecommunications company~~  
 1081 ~~with 1 million or fewer lines in service that has reduced its~~  
 1082 ~~intrastate switched network access rates to a level equal to the~~  
 1083 ~~company's interstate switched network access rates in effect on~~  
 1084 ~~January 1, 2003.~~

1085 Section 10. Paragraph (h) of subsection (3) of section  
 1086 364.10, Florida Statutes, is amended to read:

1087 364.10 Undue advantage to person or locality prohibited;  
 1088 Lifeline service.--

1089 (3)

1090 (h)1. By December 31, 2003, each state agency that  
 1091 provides benefits to persons eligible for Lifeline service shall  
 1092 undertake, in cooperation with the Department of Children and

1093 Family Services, the Department of Education, the commission,  
 1094 the Office of Public Counsel, and telecommunications companies  
 1095 providing Lifeline services, the development of procedures to  
 1096 promote Lifeline participation.

1097 2. If any state agency determines that a person is  
 1098 eligible for Lifeline service, the agency shall act immediately  
 1099 to ensure that the person is automatically enrolled in the  
 1100 program with the appropriate eligible telecommunications  
 1101 carrier. The state agency shall include an option for an  
 1102 eligible customer to choose not to subscribe to the Lifeline  
 1103 service. The Public Service Commission shall, no later than  
 1104 September 1, 2007, adopt rules as necessary creating procedures  
 1105 to automatically enroll eligible customers in Lifeline service.

1106 3. The commission, the Department of Children and Family  
 1107 Services, and the Office of Public Counsel shall enter into a  
 1108 memorandum of understanding establishing the respective duties  
 1109 of the commission, the department, and the Public Counsel with  
 1110 respect to the automatic enrollment procedures.

1111 Section 11. Section 364.163, Florida Statutes, is amended  
 1112 to read:

1113 364.163 Network access services.--For purposes of this  
 1114 section, the term "network access service" is defined as any  
 1115 service provided by a local exchange telecommunications company  
 1116 to a telecommunications company certificated under this chapter  
 1117 or licensed by the Federal Communications Commission to access  
 1118 the local exchange telecommunications network, excluding the  
 1119 local interconnection arrangements in s. 364.16 and the resale  
 1120 arrangements in s. 364.161. Each local exchange



1121 telecommunications company subject to s. 364.051 shall maintain  
1122 tariffs with the commission containing the terms, conditions,  
1123 and rates for each of its network access services. The switched  
1124 network access service rates in effect immediately prior to July  
1125 1, 2007, shall be, and shall remain, capped at that level until  
1126 July 1, 2010. An interexchange telecommunications company may  
1127 not institute any intrastate connection fee or any similarly  
1128 named fee.

1129 ~~(1) After a local exchange telecommunications company's~~  
1130 ~~intrastate switched network access rates are reduced to or below~~  
1131 ~~parity, as defined in s. 364.164(5), the company's intrastate~~  
1132 ~~switched network access rates shall be, and shall remain, capped~~  
1133 ~~for 3 years.~~

1134 ~~(2) Any intrastate interexchange telecommunications~~  
1135 ~~company whose intrastate switched network access rate is reduced~~  
1136 ~~as a result of the rate adjustments made by a local exchange~~  
1137 ~~telecommunications company in accordance with s. 364.164 shall~~  
1138 ~~decrease its intrastate long distance revenues by the amount~~  
1139 ~~necessary to return the benefits of such reduction to both its~~  
1140 ~~residential and business customers. The intrastate interexchange~~  
1141 ~~telecommunications company may determine the specific intrastate~~  
1142 ~~rates to be decreased, provided that residential and business~~  
1143 ~~customers benefit from the rate decreases. Any in state~~  
1144 ~~connection fee or similarly named fee shall be eliminated by~~  
1145 ~~July 1, 2006, provided that the timetable determined pursuant to~~  
1146 ~~s. 364.164(1) reduces intrastate switched network access rates~~  
1147 ~~in an amount that results in the elimination of such fee in a~~  
1148 ~~revenue neutral manner. The tariff changes, if any, made by the~~

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1149 ~~intrastate interexchange telecommunications company to carry out~~  
1150 ~~the requirements of this subsection shall be presumed valid and~~  
1151 ~~shall become effective on 1 day's notice.~~

1152 ~~(3) The commission shall have continuing regulatory~~  
1153 ~~oversight of intrastate switched network access and customer~~  
1154 ~~long distance rates for purposes of determining the correctness~~  
1155 ~~of any rate decrease by a telecommunications company resulting~~  
1156 ~~from the application of s. 364.164 and making any necessary~~  
1157 ~~adjustments to those rates.~~

1158 Section 12. Subsection (4) is added to section 364.385,  
1159 Florida Statutes, to read:

1160 364.385 Saving clauses.--

1161 (4) The rates and charges for basic local  
1162 telecommunications service and network access service approved  
1163 by the commission in accordance with the decisions set forth in  
1164 Orders Nos. PSC 03-1469-FOF-TL and PSC 04-0456-FOF-TL, and which  
1165 are in effect immediately prior to July 1, 2007, shall remain in  
1166 effect and such rates and charges may not be changed after the  
1167 effective date of this act, except in accordance with the  
1168 provisions of ss.364.051 and 364.163.

1169 Section 13. Sections 166.046 and 364.164, Florida  
1170 Statutes, are repealed.

1171 Section 14. This act shall take effect upon becoming a  
1172 law.