

1                                   A bill to be entitled  
2       An act relating to communications; providing a short  
3       title; providing legislative findings; providing  
4       legislative intent; amending s. 202.11, F.S.; providing a  
5       definition; amending s. 202.24, F.S.; prohibiting counties  
6       and municipalities from negotiating terms and conditions  
7       relating to cable and video services; deleting  
8       authorization to negotiate; revising application to  
9       existing ordinances or franchise agreements; amending s.  
10      337.401, F.S.; deleting authorization for counties and  
11      municipalities to award cable service franchises and a  
12      restriction that cable service companies not operate  
13      without such a franchise; amending s. 337.4061, F.S.;  
14      revising definitions; creating ss. 610.102, 610.103,  
15      610.104, 610.105, 610.106, 610.107, 610.108, 610.109,  
16      610.112, 610.113, 610.114, 610.115, 610.116, 610.117,  
17      620.118, 610.119 and 610.120, F.S.; designating the  
18      Department of State as the authorizing authority;  
19      providing definitions; requiring state authorization to  
20      provide cable and video services; providing requirements  
21      and procedures; providing for fees; providing duties and  
22      responsibilities of the Department of State; providing  
23      application procedures and requirements; providing for  
24      issuing certificates of franchise authority; providing  
25      eligibility requirements and criteria for a certificate;  
26      providing for amending a certificate; providing for  
27      transferability of certificates; providing for termination  
28      of certificates under certain circumstances; providing for

29 | challenging a department rejection of an application;  
30 | providing that the department shall function in a  
31 | ministerial capacity for certain purposes; providing for  
32 | an application form; providing for an application fee;  
33 | requiring certain information updates; providing for a  
34 | processing fee; providing for cancellation upon notice  
35 | that information updates and processing fees are not  
36 | received; providing for an opportunity to cure; providing  
37 | for transfer of such fees to the Department of Agriculture  
38 | and Consumer Services; requiring the department to  
39 | maintain a separate account for cable franchise revenues;  
40 | providing for fees to the Department of State for certain  
41 | activities; providing for incumbent cable service provider  
42 | eligibility for state-issued franchises; providing for  
43 | certain notice to municipal or county franchise authority;  
44 | providing for termination of a municipal or county  
45 | franchise; declaring certain additional obligations on a  
46 | franchisee against public policy and void; prohibiting the  
47 | department from imposing additional taxes, fees, or  
48 | charges on a cable or video service provider to issue a  
49 | certificate; prohibiting imposing buildout, construction,  
50 | and deployment requirements on a certificateholder;  
51 | imposing certain customer service requirements on cable  
52 | service providers; allowing a municipality or county to  
53 | respond to complaints for a time certain; requiring the  
54 | Department of Agriculture and Consumer Services to receive  
55 | customer service complaints; requiring provision of  
56 | public, educational, and governmental access channels or

57 | their functional equivalent; providing criteria,  
58 | requirements, and procedures; providing exceptions;  
59 | providing responsibilities of municipalities and counties  
60 | relating to such channels; providing for cable or video  
61 | services for certain public facilities; providing  
62 | requirements for and limitations on counties and  
63 | municipalities relating to access to public right-of-way;  
64 | prohibiting counties and municipalities from imposing  
65 | additional requirements on certificateholders; authorizing  
66 | counties and municipalities to require permits of  
67 | certificateholders relating to public right-of-way;  
68 | providing permit criteria and requirements; prohibiting  
69 | discrimination among cable and video service subscribers;  
70 | providing for enforcement; clarifying local government and  
71 | department authority over communications services;  
72 | providing for enforcement of compliance by  
73 | certificateholders; providing for court-ordered operation  
74 | under existing franchise agreements; providing  
75 | requirements for cable service providers under certain  
76 | court orders; requiring the Office of Program Policy  
77 | Analysis and Government Accountability to report to the  
78 | Legislature on the status of competition in the cable and  
79 | video service industry; providing report requirements;  
80 | requiring the Department of Agriculture and Consumer  
81 | Services to make recommendations to the Legislature;  
82 | providing duties of the Department of State; providing  
83 | severability; amending ss. 350.81 and 364.0361, F.S.;  
84 | conforming cross-references; amending s. 364.051, F.S.;

85 deleting provisions under which certain telecommunications  
86 companies may elect alternative regulation; amending s.  
87 364.10, F.S.; providing requirements for enrolling certain  
88 persons in the Lifeline service program; requiring the  
89 Public Service Commission to adopt rules by a specified  
90 date; requiring the commission, the Department of Children  
91 and Family Services, and the Office of Public Counsel to  
92 enter into a memorandum of understanding of respective  
93 duties under the Lifeline service program; amending s.  
94 364.163, F.S.; providing for a cap on certain switched  
95 network access service rates; deleting a time period in  
96 which intrastate access rates are capped; prohibiting  
97 interexchange telecommunications companies from  
98 instituting any intrastate connection fee; deleting  
99 provisions for regulatory oversight of intrastate access  
100 rates; amending s. 364.385, F.S.; providing for continuing  
101 effect of certain rates and charges approved by the Public  
102 Service Commission; providing for an exception; repealing  
103 s. 166.046, F.S., relating to definitions and minimum  
104 standards for cable television franchises imposed upon  
105 counties and municipalities; repealing s. 364.164, F.S.,  
106 relating to competitive market enhancement; creating s.  
107 501.2079, F.S.; providing for violations involving  
108 discrimination in delivery of video service; providing  
109 definitions; prohibiting discrimination; providing a time  
110 to cure; providing criteria; providing for enforcement;  
111 providing remedies; providing an effective date.

112

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

114

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

117 Section 2. The Legislature finds that providing an  
 118 incumbent cable or video service provider with the option to  
 119 secure a statutory certificate franchise through the preemption  
 120 of an existing cable franchise between a cable or video service  
 121 provider and any political subdivision of the state, including,  
 122 but not limited to, any municipality or county, is an essential  
 123 element of the new regulatory framework established by this act  
 124 as a matter of statewide concern to best ensure equal protection  
 125 and parity among providers and technologies, as well as to  
 126 achieve the goals stated by the Legislature in enacting this  
 127 act.

128 Section 3. Subsection (24) is added to section 202.11,  
 129 Florida Statutes, to read:

130 202.11 Definitions.--As used in this chapter:

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

133 Section 4. Paragraphs (a) and (c) of subsection (2) of  
 134 section 202.24, Florida Statutes, are amended to read:

135 202.24 Limitations on local taxes and fees imposed on  
 136 dealers of communications services.--

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

139 1. Levying on or collecting from dealers or purchasers of  
 140 communications services any tax, charge, fee, or other

141 imposition on or with respect to the provision or purchase of  
 142 communications services.

143 2. Requiring any dealer of communications services to  
 144 enter into or extend the term of a franchise or other agreement  
 145 that requires the payment of a tax, charge, fee, or other  
 146 imposition.

147 3. Adopting or enforcing any provision of any ordinance or  
 148 agreement to the extent that such provision obligates a dealer  
 149 of communications services to charge, collect, or pay to the  
 150 public body a tax, charge, fee, or other imposition.

151  
 152 Municipalities and counties may not ~~Each municipality and county~~  
 153 ~~retains authority to negotiate all terms and conditions of a~~  
 154 ~~cable service franchise allowed by federal and state law except~~  
 155 those terms and conditions related to franchise fees or ~~and~~ the  
 156 definition of gross revenues or other definitions or  
 157 methodologies related to the payment or assessment of franchise  
 158 fees on providers of cable or video services.

159 (c) This subsection does not apply to:

160 1. Local communications services taxes levied under this  
 161 chapter.

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

163 3. Occupational license taxes levied under chapter 205.

164 4. "911" service charges levied under chapter 365.

165 5. Amounts charged for the rental or other use of property  
 166 owned by a public body which is not in the public rights-of-way  
 167 to a dealer of communications services for any purpose,  
 168 including, but not limited to, the placement or attachment of

169 equipment used in the provision of communications services.

170 6. Permit fees of general applicability which are not  
 171 related to placing or maintaining facilities in or on public  
 172 roads or rights-of-way.

173 7. Permit fees related to placing or maintaining  
 174 facilities in or on public roads or rights-of-way pursuant to s.  
 175 337.401.

176 8. Any in-kind requirements, institutional networks, or  
 177 contributions for, or in support of, the use or construction of  
 178 public, educational, or governmental access facilities allowed  
 179 under federal law and imposed on providers of cable or video  
 180 service pursuant to any existing ordinance or an existing  
 181 franchise agreement granted by each municipality or county,  
 182 under which ordinance or franchise agreement service is provided  
 183 prior to July 1, 2007, or as permitted under chapter 610.

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

187 9. Special assessments and impact fees.

188 10. Pole attachment fees that are charged by a local  
 189 government for attachments to utility poles owned by the local  
 190 government.

191 11. Utility service fees or other similar user fees for  
 192 utility services.

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

197 Section 5. Paragraphs (a), (b), (e), and (f) of subsection  
198 (3) of section 337.401, Florida Statutes, are amended to read:

199 337.401 Use of right-of-way for utilities subject to  
200 regulation; permit; fees.--

201 (3)(a)~~1-~~ Because of the unique circumstances applicable to  
202 providers of communications services, including, but not limited  
203 to, the circumstances described in paragraph (e) and the fact  
204 that federal and state law require the nondiscriminatory  
205 treatment of providers of telecommunications services, and  
206 because of the desire to promote competition among providers of  
207 communications services, it is the intent of the Legislature  
208 that municipalities and counties treat providers of  
209 communications services in a nondiscriminatory and competitively  
210 neutral manner when imposing rules or regulations governing the  
211 placement or maintenance of communications facilities in the  
212 public roads or rights-of-way. Rules or regulations imposed by a  
213 municipality or county relating to providers of communications  
214 services placing or maintaining communications facilities in its  
215 roads or rights-of-way must be generally applicable to all  
216 providers of communications services and, notwithstanding any  
217 other law, may not require a provider of communications  
218 services, ~~except as otherwise provided in subparagraph 2.,~~ to  
219 apply for or enter into an individual license, franchise, or  
220 other agreement with the municipality or county as a condition  
221 of placing or maintaining communications facilities in its roads  
222 or rights-of-way. In addition to other reasonable rules or  
223 regulations that a municipality or county may adopt relating to  
224 the placement or maintenance of communications facilities in its



225 roads or rights-of-way under this subsection, a municipality or  
226 county may require a provider of communications services that  
227 places or seeks to place facilities in its roads or rights-of-  
228 way to register with the municipality or county and to provide  
229 the name of the registrant; the name, address, and telephone  
230 number of a contact person for the registrant; the number of the  
231 registrant's current certificate of authorization issued by the  
232 Florida Public Service Commission, or the Federal Communications  
233 Commission, or the Department of State; and proof of insurance  
234 or self-insuring status adequate to defend and cover claims.

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

253 ~~such expenses associated with such in-kind requirements, to the~~  
254 ~~extent permitted by federal law.~~

255 (b) Registration described in paragraph ~~subparagraph~~ (a) ~~1-~~  
256 does not establish a right to place or maintain, or priority for  
257 the placement or maintenance of, a communications facility in  
258 roads or rights-of-way of a municipality or county. Each  
259 municipality and county retains the authority to regulate and  
260 manage municipal and county roads or rights-of-way in exercising  
261 its police power. Any rules or regulations adopted by a  
262 municipality or county which govern the occupation of its roads  
263 or rights-of-way by providers of communications services must be  
264 related to the placement or maintenance of facilities in such  
265 roads or rights-of-way, must be reasonable and  
266 nondiscriminatory, and may include only those matters necessary  
267 to manage the roads or rights-of-way of the municipality or  
268 county.

269 (e) The authority of municipalities and counties to  
270 require franchise fees from providers of communications  
271 services, with respect to the provision of communications  
272 services, is specifically preempted by the state, ~~except as~~  
273 ~~otherwise provided in subparagraph (a)2.7,~~ because of unique  
274 circumstances applicable to providers of communications services  
275 when compared to other utilities occupying municipal or county  
276 roads or rights-of-way. Providers of communications services may  
277 provide similar services in a manner that requires the placement  
278 of facilities in municipal or county roads or rights-of-way or  
279 in a manner that does not require the placement of facilities in  
280 such roads or rights-of-way. Although similar communications

281 services may be provided by different means, the state desires  
282 to treat providers of communications services in a  
283 nondiscriminatory manner and to have the taxes, franchise fees,  
284 and other fees paid by providers of communications services be  
285 competitively neutral. Municipalities and counties retain all  
286 existing authority, if any, to collect franchise fees from users  
287 or occupants of municipal or county roads or rights-of-way other  
288 than providers of communications services, and the provisions of  
289 this subsection shall have no effect upon this authority. The  
290 provisions of this subsection do not restrict the authority, if  
291 any, of municipalities or counties or other governmental  
292 entities to receive reasonable rental fees based on fair market  
293 value for the use of public lands and buildings on property  
294 outside the public roads or rights-of-way for the placement of  
295 communications antennas and towers.

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

309 telecommunications company.

310 Section 6. Section 337.4061, Florida Statutes, is amended  
311 to read:

312 337.4061 Definitions; unlawful use of state-maintained  
313 road right-of-way by nonfranchised cable and video ~~television~~  
314 services.--

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

316 (a) "Cable service" means:

317 1. The one-way transmission to subscribers of video  
318 programming or any other programming service; and

319 2. Subscriber interaction, if any, which is required for  
320 the selection or use of such video programming or other  
321 programming service.

322 (b) "Cable system" means a facility, consisting of a set  
323 of closed transmission paths and associated signal generation,  
324 reception, and control equipment that is designed to provide  
325 cable service which includes video programming and which is  
326 provided to multiple subscribers within a community, but such  
327 term does not include:

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

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

334 3. A facility that serves subscribers without using any  
335 public right-of-way.

336 ~~4.3.~~ A facility of a common carrier that is subject, in

337 whole or in part, to the provisions of Title II of the federal  
338 Communications Act of 1934, except ~~that~~ such facility shall be  
339 considered a cable system other than for purposes of 47 U.S.C.  
340 Section 541(c) to the extent such facility is used in the  
341 transmission of video programming directly to subscribers,  
342 unless the extent of such use is solely to provide interactive  
343 on-demand services; ~~or~~

344 5.4- Any facilities of any electric utility used solely  
345 for operating its electric utility systems; ~~or-~~

346 6. An open video system that complies with 47 U.S.C.  
347 Section 573.

348 (c) "Franchise" means an initial authorization or renewal  
349 thereof issued by a franchising authority, whether such  
350 authorization is designated as a franchise, permit, license,  
351 resolution, contract, certificate, agreement, or otherwise,  
352 which authorizes the construction or operation of a cable system  
353 or video service provider network facilities.

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

356 (e) "Person" means an individual, partnership,  
357 association, joint stock company, trust, corporation, or  
358 governmental entity.

359 (f) "Video programming" means programming provided by or  
360 generally considered comparable to programming provided by a  
361 television broadcast station or cable system.

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

364 (2) It is unlawful to use the right-of-way of any state-

365 maintained road, including appendages thereto, and also  
 366 including, but not limited to, rest areas, wayside parks, boat-  
 367 launching ramps, weigh stations, and scenic easements, to  
 368 provide for cable or video service over facilities ~~purposes~~  
 369 within a geographic area subject to a valid existing franchise  
 370 for cable or video service, unless the cable or video service  
 371 provider ~~system~~ using such right-of-way holds a franchise from a  
 372 franchise authority ~~the municipality or county~~ for the area in  
 373 which the right-of-way is located.

374 (3) A violation of this section shall be deemed a  
 375 violation of s. 337.406.

376 Section 7. Sections 610.102, 610.103, 610.104, 610.105,  
 377 610.106, 610.107, 610.108, 610.109, 610.112, 610.113, 610.114,  
 378 610.115, 610.116, 610.117, 610.118, 610.119, and 610.120,  
 379 Florida Statutes, are created to read:

380 610.102 Department of State authority to issue statewide  
 381 cable and video franchise.--The department shall be designated  
 382 as the franchising authority for a state-issued franchise for  
 383 the provision of cable or video service. A municipality or  
 384 county may not grant a new franchise for the provision of cable  
 385 or video service within its jurisdiction.

386 610.103 Definitions.--As used in ss. 610.102-610.117:

387 (1) "Cable service" means:

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

390 (b) Subscriber interaction, if any, that is required for  
 391 the selection or use of such video programming or other  
 392 programming service.

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

395       (3) "Cable system" means a facility consisting of a set of  
396 closed transmission paths and associated signal generation,  
397 reception, and control equipment that is designed to provide  
398 cable service that includes video programming and that is  
399 provided to multiple subscribers within a community, but such  
400 term does not include:

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

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

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

409       (d) A facility of a common carrier that is subject, in  
410 whole or in part, to the provisions of Title II of the federal  
411 Communications Act of 1934 except that such facility shall be  
412 considered a cable system other than for purposes of 47 U.S.C.  
413 Section 541(c) to the extent such facility is used in the  
414 transmission of video programming directly to subscribers,  
415 unless the extent of such use is solely to provide interactive  
416 on-demand services;

417       (e) Any facilities of any electric utility used solely for  
418 operating its electric utility systems; or

419       (f) An open video system that complies with 47 U.S.C.  
420 Section 573.

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

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

425           (6) "Franchise" means an initial authorization or renewal  
 426 of an authorization, regardless of whether the authorization is  
 427 designated as a franchise, permit, license, resolution,  
 428 contract, certificate, agreement, or otherwise, to construct and  
 429 operate a cable system or video service provider network  
 430 facilities in the public right-of-way.

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

433           (8) "Incumbent cable service provider" means a cable or  
 434 video service provider providing cable or video service on July  
 435 1, 2007.

436           (9) "Public right-of-way" means the area on, below, or  
 437 above a public roadway, highway, street, sidewalk, alley, or  
 438 waterway, including, without limitation, a municipal, county,  
 439 state, district, or other public roadway, highway, street,  
 440 sidewalk, alley, or waterway.

441           (10) "Video programming" means programming provided by, or  
 442 generally considered comparable to programming provided by, a  
 443 television broadcast station as set forth in 47 U.S.C. s.  
 444 522(20).

445           (11) "Video service" means video programming services,  
 446 including cable services, provided through wireline facilities  
 447 located at least in part in the public rights-of-way without  
 448 regard to delivery technology, including Internet protocol



449 technology. This definition does not include any video  
450 programming provided by a commercial mobile service provider as  
451 defined in 47 U.S.C. s. 332(d), video programming provided as  
452 part of, and via a service that enables end users to access  
453 content, information, electronic mail, or other services offered  
454 over the public Internet.

455 (12) "Video service provider" means an entity providing  
456 video service.

457 610.104 State authorization to provide cable or video  
458 service.--

459 (1) An entity or person seeking to provide cable or video  
460 service in this state after July 1, 2007, shall file an  
461 application for a state-issued certificate of franchise  
462 authority with the department as required by this section.

463 (2) An applicant for a state-issued certificate of  
464 franchise authority to provide cable or video service shall  
465 submit to the Department of State an application that contains:

466 (a) The official name of the cable or video service  
467 provider.

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

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

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

476 (e) A duly executed affidavit signed by an officer,

477 partner, owner, or managing member affirming and containing:

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

481 2. That the applicant has filed or will timely file with  
 482 the Federal Communications Commission all forms required by that  
 483 agency in advance of offering cable or video service in this  
 484 state.

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

489 4. That the applicant agrees to comply with all state laws  
 490 and rules and municipal and county ordinances and regulations  
 491 regarding the placement and maintenance of communications  
 492 facilities in the public rights-of-way that are generally  
 493 applicable to providers of communications services in accordance  
 494 with s. 337.401.

495 5. A description of the service area for which the  
 496 applicant seeks a certificate of franchise authority provided on  
 497 a municipal or countywide basis. The description may be provided  
 498 in a manner that does not disclose competitively sensitive  
 499 information. Notwithstanding the foregoing:

500 a. For incumbent cable or video service providers that  
 501 have existing local franchise agreements, the service area shall  
 502 be coextensive with the provider's service area description in  
 503 the existing local franchise.

504 b. For applicants using telecommunications facilities to

505 provide video services, the service area shall be described in  
506 terms of entire wire centers that may or may not be consistent  
507 with municipal or county boundaries except any portion of a  
508 specific wire center which will remain subject to an existing  
509 cable or video franchise agreement until the earlier of the  
510 agreement's expiration or termination.

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

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

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

521 9. The applicant's system shall comply with the Federal  
522 Communications Commission's rules and regulations of the  
523 Emergency Alert System.

524 (3) Before the 10th business day after the department  
525 receives the application, the department shall notify the  
526 applicant whether the application and affidavit described in  
527 subsection (2) are complete. If the department rejects the  
528 application and affidavit, the department shall specify with  
529 particularity the reasons for the rejection and permit the  
530 applicant to amend the application or affidavit to cure any  
531 deficiency. The department shall act upon the amended  
532 application or affidavit within 10 business days after the

533 department's receipt of the amended application or affidavit.

534 (4) The department shall issue a certificate of franchise  
535 authority to the applicant before the 15th business day after  
536 receipt of an accepted application. The certificate of franchise  
537 authority issued by the department shall contain:

538 (a) The name of the certificateholder and its  
539 identification number.

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

542 (c) A grant of authority to construct, maintain, and  
543 operate facilities through, upon, over, and under any public  
544 right-of-way or waters, subject to the applicable governmental  
545 permitting or authorization from the Board of Trustees of the  
546 Internal Improvement Trust Fund.

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

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

552 (f) A statement that includes the issuance date that shall  
553 be the effective date of the commencement of this authority.

554 (5) If the department fails to act on the accepted  
555 application within 30 business days after receiving the accepted  
556 application, the application shall be deemed approved by the  
557 department without further action.

558 (6) A certificateholder that seeks to include additional  
559 service areas in its current certificate shall file an amendment  
560 to the certificate with the department. Such amendment shall

561 specify the name and address of the certificateholder, the new  
562 service area or areas to be served, consistent with subparagraph  
563 (2)(e)5., but need not be coextensive with municipal or county  
564 boundaries, and the effective date of commencement of operations  
565 in the new service area or areas. Such amendment shall be filed  
566 with the department within 5 business days after first providing  
567 service in each such additional area.

568 (7) The certificate of franchise authority issued by the  
569 department is fully transferable to any successor in interest to  
570 the applicant to which the certificate is initially granted. A  
571 notice of transfer shall be filed with the department and the  
572 relevant municipality or county within 14 business days  
573 following the completion of such transfer.

574 (8) The certificate of franchise authority issued by the  
575 department may be terminated by the cable or video service  
576 provider by submitting notice to the department.

577 (9) An applicant may challenge a rejection of an  
578 application by the department in a court of competent  
579 jurisdiction through a petition for mandamus.

580 (10) In executing the provisions of this section, the  
581 department shall function in a ministerial capacity accepting  
582 information contained in the application and affidavit at face  
583 value. The applicant shall ensure continued compliance with all  
584 applicable business formation, registration, and taxation  
585 provisions of law.

586 (11) The application shall be accompanied by a one-time  
587 fee of \$10,000. A parent company may file a single application  
588 covering itself and all of its subsidiaries and affiliates

589 intending to provide cable or video service in the service areas  
590 throughout the state as described in paragraph (3) (d), but the  
591 entity actually providing such service in a given area shall  
592 otherwise be considered the certificateholder under this act.

593 (12) Beginning 5 years after approval of the  
594 certificateholder's initial certificate of franchise issued by  
595 the department, and every 5 years thereafter, the  
596 certificateholder shall update the information contained in the  
597 original application for a certificate of franchise. At the time  
598 of filing the information update, the certificateholder shall  
599 pay a processing fee of \$1,000. Any certificateholder that fails  
600 to file the updated information and pay the processing fee on  
601 the 5-year anniversary dates shall be subject to cancellation of  
602 its state-issued certificate of franchise authority if, upon  
603 notice given to the certificateholder at its last address on  
604 file with the department, the certificateholder fails to file  
605 the updated information and pay the processing fee within 30  
606 days after the date notice was mailed. The application and  
607 processing fees imposed in this section shall be paid to the  
608 Department of State for deposit into the Operating Trust Fund  
609 for immediate transfer by the Chief Financial Officer to the  
610 General Inspection Trust Fund of the Department of Agriculture  
611 and Consumer Services. The Department of Agriculture and  
612 Consumer Services shall maintain a separate account within the  
613 General Inspection Trust Fund to distinguish cable franchise  
614 revenues from all other funds. The application, any amendments  
615 to the certificate, or information updates must be accompanied  
616 by a fee to the Department of State equal to that for filing

617 articles of incorporation pursuant to s. 607.0122(1).  
 618 610.105 Eligibility for state-issued franchise.--  
 619 (1) After July 1, 2007, an incumbent cable or video  
 620 service provider is immediately eligible at its option to apply  
 621 for a state-issued certificate of franchise authority under this  
 622 chapter and shall file a written notice with the applicable  
 623 municipality or county in which the provider provides cable or  
 624 video service simultaneously with any filing with the department  
 625 under this chapter. The applicable municipal or county franchise  
 626 is terminated under this section on the date the department  
 627 issues the state-issued certificate of franchise authority.  
 628 (2) If an incumbent cable or video service provider has  
 629 been granted a state-issued certificate of franchise authority  
 630 that covers all or a portion of a municipality or county, any  
 631 obligation under any existing municipal or county franchise that  
 632 exceeds the obligations imposed on the certificateholder in the  
 633 area covered by the certificate shall be against public policy  
 634 and void.  
 635 610.106 Franchise fees prohibited.--Except as otherwise  
 636 provided in this chapter, the department may not impose any  
 637 taxes, fees, charges, or other impositions on a cable or video  
 638 service provider as a condition for the issuance of a state-  
 639 issued certificate of franchise authority. No municipality or  
 640 county may impose any taxes, fees, charges, or other exactions  
 641 on certificateholders in connection with use of public right-of-  
 642 way as a condition of a certificateholder doing business in the  
 643 municipality or county, or otherwise, except such taxes, fees,  
 644 charges, or other exactions permitted by chapter 202, s.

645 337.401(6), or s. 610.117.

646 610.107 Buildout.--No franchising authority, state agency,  
647 or political subdivision may impose any buildout, system  
648 construction, or service deployment requirements on a  
649 certificateholder.

650 610.108 Customer service standards.--

651 (1) All cable or video service providers shall comply with  
652 customer service requirements in 47 C.F.R. s. 76.309(c).

653 (2) Any municipality or county that, as of January 1,  
654 2007, has an office or department dedicated to responding to  
655 cable or video service customer complaints may continue to  
656 respond to such complaints until July 1, 2009. Beginning July 1,  
657 2009, the Department of Agriculture and Consumer Services shall  
658 have the sole authority to respond to all cable or video service  
659 customer complaints. This provision does not permit the  
660 municipality, county, or department to impose customer service  
661 standards inconsistent with the requirements in 47 C.F.R. s.  
662 76.309(c).

663 (3) The Department of Agriculture and Consumer Services  
664 shall receive service quality complaints from customers of a  
665 cable or video service provider and shall address such  
666 complaints in an expeditious manner by assisting in the  
667 resolution of such complaint between the complainant and the  
668 cable or video service provider. The Department of Agriculture  
669 and Consumer Services may adopt any procedural rules pursuant to  
670 ss. 120.536(1) and 120.54 necessary to administer this section,  
671 but shall not have any authority to impose any customer service  
672 requirements inconsistent with those contained in 47 C.F.R. s.



673 76.309(c).

674 610.109 Public, educational, and governmental access  
675 channels.--

676 (1) A certificateholder, not later than 180 days following  
677 a request by a municipality or county within whose jurisdiction  
678 the certificateholder is providing cable or video service, shall  
679 designate a sufficient amount of capacity on its network to  
680 allow the provision of public, educational, and governmental  
681 access channels for noncommercial programming as set forth in  
682 this section.

683 (2) A certificateholder shall designate a sufficient  
684 amount of capacity on its network to allow the provision of the  
685 same number of public, educational, and governmental access  
686 channels or their functional equivalent that a municipality or  
687 county has activated under the incumbent cable or video service  
688 provider's franchise agreement as of July 1, 2007. For the  
689 purposes of this section, a public, educational, or governmental  
690 channel is deemed activated if the channel is being used for  
691 public, educational, or governmental programming within the  
692 municipality or county. The municipality or county may request  
693 additional channels or their functional equivalent permitted  
694 under the incumbent cable or video service provider's franchise  
695 agreement as of July 1, 2007. Upon the expiration of the  
696 incumbent cable or video service provider's franchise agreement  
697 or within 6 months after a request of a municipality or county  
698 for an additional channel or its functional equivalent, a public  
699 access channel or capacity equivalent may be furnished after a  
700 polling of all subscribers of the cable or video service in

701 their service area. The usage of one public access channel or  
702 capacity equivalent shall be determined by a majority of all the  
703 provider's subscribers in the jurisdiction. The video or cable  
704 service subscribers must be provided with clear, plain language  
705 informing them that public access is unfiltered programming and  
706 may contain adult content.

707 (3) If a municipality or county did not have public,  
708 educational, or governmental access channels activated under the  
709 incumbent cable or video service provider's franchise agreement  
710 as of July 1, 2007, after the expiration date of the incumbent  
711 cable or video service provider's franchise agreement and within  
712 6 months after a request by the municipality or county within  
713 whose jurisdiction a certificateholder is providing cable or  
714 video service, the certificateholder shall furnish up to two  
715 public, educational, or governmental channels or their  
716 functional equivalent. The usage of the channels or their  
717 functional equivalent shall be determined by a majority of all  
718 the video service provider's subscribers in the jurisdiction in  
719 order of preference of all video service subscribers. Cable or  
720 video service subscribers must be provided with clear, plain  
721 language informing them that public access is unfiltered  
722 programming and contains adult content.

723 (4) If a municipality or county has not used the number of  
724 access channels or their functional equivalent permitted by  
725 subsection (3), access to the additional channels or their  
726 functional equivalent allowed in subsection (3) shall be  
727 provided upon 6 months' written notice.

728 (5) A public, educational, or governmental access channel

729 authorized by this section is deemed activated and substantially  
730 used if the channel is being used for public, educational, or  
731 governmental access programming within the municipality or  
732 county for at least 10 hours per day on average, of which at  
733 least 5 hours must be nonrepeat programming and as measured on a  
734 quarterly basis. Static information screens or bulletin-board  
735 programming shall not count toward this 10-hour requirement. If  
736 the applicable access channel does not meet this utilization  
737 criterion, the video service provider shall notify the  
738 applicable access provider in writing of this failure. If the  
739 access provider fails to meet this utilization criterion in the  
740 subsequent quarter, the cable or video service provider may  
741 reprogram the channel at its discretion. The cable or video  
742 service provider shall work in good faith with the access  
743 provider to attempt to provide future carriage of the applicable  
744 access channel within the limits of this section if the access  
745 provider can make reasonable assurances that its future  
746 programming will meet the utilization criteria set out in this  
747 subsection.

748 (6) A cable or video service provider may locate any  
749 public, educational, or governmental access channel on its  
750 lowest digital tier of service offered to the provider's  
751 subscribers. A cable or video service provider must notify its  
752 customers and the applicable municipality or county at least 120  
753 days prior to relocating the applicable educational or  
754 governmental access channel.

755 (7) The operation of any public, educational, or  
756 governmental access channel or its functional equivalent

757 provided under this section shall be the responsibility of the  
758 municipality or county receiving the benefit of such channel or  
759 its functional equivalent, and a certificateholder bears only  
760 the responsibility for the transmission of such channel content.  
761 A certificateholder shall be responsible for the cost of  
762 providing the connectivity to one origination point for each  
763 public, educational, or governmental access channel up to 200  
764 feet from the certificateholder's activated video service  
765 distribution plant.

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

783 (9) Where technically feasible, a certificateholder and an  
784 incumbent cable service provider shall use reasonable efforts to

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

794 (10) 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. This  
802 subsection does not apply to the logo, name, or other  
803 identifying marks of the public, educational, or governmental  
804 programmer or producer.

805 (11) A municipality or county that has activated at least  
806 one public, educational, or governmental access channel pursuant  
807 to this section may require cable or video service providers to  
808 remit public, educational, and governmental support  
809 contributions in an amount equal to a lump-sum or recurring per-  
810 subscriber funding obligation to support public, educational,  
811 and governmental access channels, or other related costs as  
812 provided for in the incumbent's franchise that exists prior to

813 July 1, 2007, until the expiration date of the incumbent cable  
814 or video service provider's franchise agreement. Any prospective  
815 lump-sum payment shall be made on an equivalent per-subscriber  
816 basis calculated as follows: the amount of prospective funding  
817 obligations divided by the number of subscribers being served by  
818 the incumbent cable or video service provider at the time of  
819 payment, divided by the number of months remaining in the  
820 incumbent cable or video service provider's franchise equals the  
821 monthly per-subscriber amount to be paid by the  
822 certificateholder. The obligations set forth in this subsection  
823 apply until the earlier of the expiration date of the incumbent  
824 cable or video service provider's franchise agreement or July 1,  
825 2012. For purposes of this subsection, an incumbent cable or  
826 video service provider is the service provider serving the  
827 largest number of subscribers as of July 1, 2007.

828 (12) A court of competent jurisdiction shall have  
829 exclusive jurisdiction to enforce any requirement under this  
830 section.

831 610.112 Cable or video services for public facilities.--  
832 Upon a request by a municipality or county, a certificateholder  
833 shall provide, within 90 days after receipt of the request, one  
834 active basic cable or video service outlet to K-12 public  
835 schools, public libraries, or local government administrative  
836 buildings, to the extent such buildings are located within 200  
837 feet of the certificateholder's activated video distribution  
838 plant. At the request of the municipality or county, the  
839 certificateholder shall extend its distribution plant to serve  
840 such buildings located more than 200 feet from the

841 certificateholder's activated video distribution plant. In such  
842 circumstances, the governmental entity owning or occupying the  
843 building is responsible for the time and material costs incurred  
844 in extending the certificateholder's activated video  
845 distribution plant to within 200 feet adjacent to the building.  
846 The cable or video services provided under this section shall  
847 not be available in an area viewed by the general public and may  
848 not be used for any commercial purpose.

849 610.113 Nondiscrimination by municipality or county.--

850 (1) A municipality or county shall allow a  
851 certificateholder to install, construct, and maintain a network  
852 within a public right-of-way and shall provide a  
853 certificateholder with comparable, nondiscriminatory, and  
854 competitively neutral access to the public right-of-way in  
855 accordance with the provisions of s. 337.401. All use of a  
856 public right-of-way by a certificateholder is nonexclusive.

857 (2) A municipality or county may not discriminate against  
858 a certificateholder regarding:

859 (a) The authorization or placement of a network in a  
860 public right-of-way;

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

862 (c) Utility pole attachment terms and conditions.

863 610.114 Limitation on local authority.--

864 (1) A municipality or county may not impose additional  
865 requirements on a certificateholder, including, but not limited  
866 to, financial, operational, and administrative requirements,  
867 except as expressly permitted by this chapter. A municipality or  
868 county may not impose on activities of a certificateholder a

869 requirement:

870 (a) That particular business offices be located in the  
871 municipality or county;

872 (b) Regarding the filing of reports and documents with the  
873 municipality or county that are not required by state or federal  
874 law and that are not related to the use of the public right-of-  
875 way. Reports and documents other than schematics indicating the  
876 location of facilities for a specific site that are provided in  
877 the normal course of the municipality's or county's permitting  
878 process, that are authorized by s. 337.401 for communications  
879 services providers, or that are otherwise required in the normal  
880 course of such permitting process shall not be considered  
881 related to the use of the public right-of-way for communications  
882 service providers. A municipality or county may not request  
883 information concerning the capacity or technical configuration  
884 of a certificateholder's facilities;

885 (c) For the inspection of a certificateholder's business  
886 records; or

887 (d) For the approval of transfers of ownership or control  
888 of a certificateholder's business, except that a municipality or  
889 county may require a certificateholder to provide notice of a  
890 transfer within a reasonable time.

891 (2) Notwithstanding any other provision of law, a  
892 municipality or county may require the issuance of a permit in  
893 accordance with and subject to s. 337.401 to a certificateholder  
894 that is placing and maintaining facilities in or on a public  
895 right-of-way in the municipality or county. In accordance with  
896 s. 337.402, the permit may require the permitholder to be



897 responsible, at the permitholder's expense, for any damage  
 898 resulting from the issuance of such permit and for restoring the  
 899 public right-of-way to its original condition before  
 900 installation of such facilities. The terms of the permit shall  
 901 be consistent with construction permits issued to other  
 902 providers of communications services placing or maintaining  
 903 communications facilities in a public right-of-way.

904 610.115 Discrimination prohibited.--

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

907 (2) A cable or video service provider may not deny access  
 908 to service to any individual or group of potential residential  
 909 subscribers because of the race or income of the residents in  
 910 the local area in which the individual or group resides.  
 911 Enforcement of this section shall be in accordance with s.  
 912 501.2079.

913 610.116 Compliance.--If a certificateholder is found by a  
 914 court of competent jurisdiction not to be in compliance with the  
 915 requirements of this chapter, the certificateholder shall have a  
 916 reasonable period of time, as specified by the court, to cure  
 917 such noncompliance.

918 610.117 Limitation.--Nothing in this chapter shall be  
 919 construed to give any local government or the department any  
 920 authority over any communications service other than cable or  
 921 video services whether offered on a common carrier or private  
 922 contract basis.

923 610.118 Impairment; court-ordered operations.--

924 (1) If an incumbent cable or video service provider is

925 required to operate under its existing franchise and is legally  
926 prevented by a lawfully issued order of a court of competent  
927 jurisdiction from exercising its right to terminate its existing  
928 franchise pursuant to the terms of s. 610.105, any  
929 certificateholder providing cable service or video service in  
930 whole or in part within the service area that is the subject of  
931 the incumbent cable or video service provider's franchise shall,  
932 for as long as the court order remains in effect, comply with  
933 the following franchise terms and conditions as applicable to  
934 the incumbent cable or video service provider in the service  
935 area:

936 (a) The certificateholder shall pay to the municipality or  
937 county:

938 1. Any prospective lump-sum or recurring per-subscriber  
939 funding obligations to support public, educational, and  
940 governmental access channels or other prospective franchise-  
941 required monetary grants related to public, educational, or  
942 governmental access facilities equipment and capital costs.  
943 Prospective lump-sum payments shall be made on an equivalent  
944 per-subscriber basis calculated as follows: the amount of the  
945 prospective funding obligations divided by the number of  
946 subscribers being served by the incumbent cable service provider  
947 at the time of payment, divided by the number of months  
948 remaining in the incumbent cable or video service provider's  
949 franchise equals the monthly per subscriber amount to be paid by  
950 the certificateholder until the expiration or termination of the  
951 incumbent cable or video service provider's franchise; and

952 2. If the incumbent cable or video service provider is

953 required to make payments for the funding of an institutional  
954 network, the certificateholder shall pay an amount equal to the  
955 incumbent's funding obligations but not to exceed 1 percent of  
956 the sales price, as defined in s. 202.11(13), for the taxable  
957 monthly retail sales of cable or video programming services the  
958 certificateholder received from subscribers in the affected  
959 municipality or county. All definitions and exemptions under  
960 chapter 202 apply in the determination of taxable monthly retail  
961 sales of cable or video programming services.

962 (b) Payments are not due under this subsection until 45  
963 days after the municipality or county notifies the respective  
964 providers.

965 (c) Any certificateholder may designate that portion of  
966 that subscriber's bill attributable to any fee imposed pursuant  
967 to this section as a separate item on the bill and recover such  
968 amount from the subscriber.

969 (2) The provisions of subsection (1) do not alter the  
970 rights of a cable service or video service provider with respect  
971 to service areas designated pursuant to s. 610.104(2)(e)5. Any  
972 certificateholder providing cable service or video service in a  
973 service area covered by the terms of an existing cable or video  
974 service provider's franchise that is subject to a court or other  
975 proceeding challenging the ability of an incumbent cable or  
976 video service provider to exercise its legal right to terminate  
977 its existing cable franchise pursuant to s. 610.105 has the  
978 right to intervene in such proceeding.

979 610.119 Reports to the Legislature.--

980 (1) The Office of Program Policy Analysis and Government

981 Accountability shall submit to the President of the Senate, the  
982 Speaker of the House of Representatives, and the majority and  
983 minority leaders of the Senate and House of Representatives, by  
984 December 1, 2009, and December 1, 2014, a report on the status  
985 of competition in the cable and video service industry,  
986 including, by each municipality and county, the number of cable  
987 and video service providers, the number of cable and video  
988 subscribers served, the number of areas served by fewer than two  
989 cable or video service providers, the trend in cable and video  
990 service prices, and the identification of any patterns of  
991 service as they impact demographic and income groups.

992 (2) By January 15, 2008, the Department of Agriculture and  
993 Consumer Services shall make recommendations to the President of  
994 the Senate, the Speaker of the House of Representatives, and the  
995 majority and minority leaders of the Senate and House of  
996 Representatives regarding the workload and staffing requirements  
997 associated with consumer complaints related to video and cable  
998 certificateholders. The Department of State shall provide to the  
999 Department of Agriculture and Consumer Services, for inclusion  
1000 in the report, the workload requirements for processing the  
1001 certificates of franchise authority. In addition, the Department  
1002 of State shall provide the number of applications filed for  
1003 cable and video certificates of franchise authority and the  
1004 number of amendments received to original applications for  
1005 franchise certificate authority.

1006 610.120 Severability.--If any provision of ss. 610.102-  
1007 610.119 or the application thereof to any person or circumstance  
1008 is held invalid, such invalidity shall not affect other

1009 provisions or application of ss. 610.102-610.119 which can be  
 1010 given effect without the invalid provision or application, and  
 1011 to this end the provisions of ss. 610.102-610.119 are severable.

1012 Section 8. Paragraph (a) of subsection (3) of section  
 1013 350.81, Florida Statutes, is amended to read:

1014 350.81 Communications services offered by governmental  
 1015 entities.--

1016 (3)(a) A governmental entity that provides a cable or  
 1017 video service shall comply with the Cable Communications Policy  
 1018 Act of 1984, 47 U.S.C. ss. 521 et seq., the regulations issued  
 1019 by the Federal Communications Commission under the Cable  
 1020 Communications Policy Act of 1984, 47 U.S.C. ss. 521 et seq.,  
 1021 and all applicable state and federal rules and regulations,  
 1022 including, but not limited to, ~~s. 166.046~~ and those provisions  
 1023 of chapters 202, 212, ~~and~~ 337, and 610 that ~~which~~ apply to a  
 1024 provider of the services.

1025 Section 9. Section 364.0361, Florida Statutes, is amended  
 1026 to read:

1027 364.0361 Local government authority; nondiscriminatory  
 1028 exercise.--A local government shall treat each  
 1029 telecommunications company in a nondiscriminatory manner when  
 1030 exercising its authority to grant franchises to a  
 1031 telecommunications company or to otherwise establish conditions  
 1032 or compensation for the use of rights-of-way or other public  
 1033 property by a telecommunications company. A local government may  
 1034 not directly or indirectly regulate the terms and conditions,  
 1035 including, but not limited to, the operating systems,  
 1036 qualifications, services, service quality, service territory,

1037 and prices, applicable to or in connection with the provision of  
 1038 any voice-over-Internet protocol, regardless of the platform,  
 1039 provider, or protocol, broadband or information service. This  
 1040 section does not relieve a provider from any obligations under  
 1041 ~~s. 166.046 or s. 337.401.~~

1042 Section 10. Subsections (6), (7), and (8) of section  
 1043 364.051, Florida Statutes, are amended to read:

1044 364.051 Price regulation.--

1045 ~~(6) After a local exchange telecommunications company that~~  
 1046 ~~has more than 1 million access lines in service has reduced its~~  
 1047 ~~intrastate switched network access rates to parity, as defined~~  
 1048 ~~in s. 364.164(5), the local exchange telecommunications~~  
 1049 ~~company's retail service quality requirements that are not~~  
 1050 ~~already equal to the service quality requirements imposed upon~~  
 1051 ~~the competitive local exchange telecommunications companies~~  
 1052 ~~shall at the company's request to the commission be no greater~~  
 1053 ~~than those imposed upon competitive local exchange~~  
 1054 ~~telecommunications companies unless the commission, within 120~~  
 1055 ~~days after the company's request, determines otherwise. In such~~  
 1056 ~~event, the commission may grant some reductions in service~~  
 1057 ~~quality requirements in some or all of the company's local~~  
 1058 ~~calling areas. The commission may not impose retail service~~  
 1059 ~~quality requirements on competitive local exchange~~  
 1060 ~~telecommunications companies greater than those existing on~~  
 1061 ~~January 1, 2003.~~

1062 ~~(7) After a local exchange telecommunications company that~~  
 1063 ~~has more than 1 million access lines in service has reduced its~~  
 1064 ~~intrastate switched network access rates to parity, as defined~~

1065 ~~in s. 364.164(5), the local exchange telecommunications company~~  
 1066 ~~may petition the commission for regulatory treatment of its~~  
 1067 ~~retail services at a level no greater than that imposed by the~~  
 1068 ~~commission upon competitive local exchange telecommunications~~  
 1069 ~~companies. The local exchange telecommunications company shall:~~

1070 ~~(a) Show that granting the petition is in the public~~  
 1071 ~~interest;~~

1072 ~~(b) Demonstrate that the competition faced by the company~~  
 1073 ~~is sufficient and sustainable to allow such competition to~~  
 1074 ~~supplant regulation by the commission; and~~

1075 ~~(c) Reduce its intrastate switched network access rates to~~  
 1076 ~~its local reciprocal interconnection rate upon the grant of the~~  
 1077 ~~petition.~~

1078  
 1079 ~~The commission shall act upon such a petition within 9 months~~  
 1080 ~~after its filing with the commission. The commission may not~~  
 1081 ~~increase the level of regulation for competitive local exchange~~  
 1082 ~~telecommunications companies to a level greater than that which~~  
 1083 ~~exists on the date the local exchange telecommunications company~~  
 1084 ~~files its petition.~~

1085 ~~(8) The provisions described in subsections (6) and (7)~~  
 1086 ~~shall apply to any local exchange telecommunications company~~  
 1087 ~~with 1 million or fewer lines in service that has reduced its~~  
 1088 ~~intrastate switched network access rates to a level equal to the~~  
 1089 ~~company's interstate switched network access rates in effect on~~  
 1090 ~~January 1, 2003.~~

1091 Section 11. Paragraph (h) of subsection (3) of section  
 1092 364.10, Florida Statutes, is amended to read:

1093 364.10 Undue advantage to person or locality prohibited;  
 1094 Lifeline service.--

1095 (3)

1096 (h)1. By December 31, 2007 ~~2003~~, each state agency that  
 1097 provides benefits to persons eligible for Lifeline service shall  
 1098 undertake, in cooperation with the Department of Children and  
 1099 Family Services, the Department of Education, the commission,  
 1100 the Office of Public Counsel, and telecommunications companies  
 1101 providing Lifeline services, the development of procedures to  
 1102 promote Lifeline participation.

1103 2. If any state agency determines that a person is  
 1104 eligible for Lifeline services, the agency shall immediately  
 1105 forward the information to the commission to ensure that the  
 1106 person is automatically enrolled in the program with the  
 1107 appropriate eligible telecommunications carrier. The state  
 1108 agency shall include an option for an eligible customer to  
 1109 choose not to subscribe to the Lifeline service. The Public  
 1110 Service Commission and the Department of Children and Family  
 1111 Services shall, no later than December 31, 2007, adopt rules  
 1112 creating procedures to automatically enroll eligible customers  
 1113 in Lifeline service.

1114 3. The commission, the Department of Children and Family  
 1115 Services, and the Office of Public Counsel shall enter into a  
 1116 memorandum of understanding establishing the respective duties  
 1117 of the commission, the department, and the public counsel with  
 1118 respect to the automatic enrollment procedures no later than  
 1119 December 31, 2007.

1120 Section 12. Section 364.163, Florida Statutes, is amended



1121 to read:

1122       364.163 Network access services.--For purposes of this  
 1123 section, the term "network access service" is defined as any  
 1124 service provided by a local exchange telecommunications company  
 1125 to a telecommunications company certificated under this chapter  
 1126 or licensed by the Federal Communications Commission to access  
 1127 the local exchange telecommunications network, excluding the  
 1128 local interconnection arrangements in s. 364.16 and the resale  
 1129 arrangements in s. 364.161. Each local exchange  
 1130 telecommunications company subject to s. 364.051 shall maintain  
 1131 tariffs with the commission containing the terms, conditions,  
 1132 and rates for each of its network access services. The switched  
 1133 network access service rates in effect immediately prior to July  
 1134 1, 2007, shall be, and shall remain, capped at that level until  
 1135 July 1, 2010. An interexchange telecommunications company may  
 1136 not institute any intrastate connection fee or any similarly  
 1137 named fee.

1138       ~~(1) After a local exchange telecommunications company's~~  
 1139 ~~intrastate switched network access rates are reduced to or below~~  
 1140 ~~parity, as defined in s. 364.164(5), the company's intrastate~~  
 1141 ~~switched network access rates shall be, and shall remain, capped~~  
 1142 ~~for 3 years.~~

1143       ~~(2) Any intrastate interexchange telecommunications~~  
 1144 ~~company whose intrastate switched network access rate is reduced~~  
 1145 ~~as a result of the rate adjustments made by a local exchange~~  
 1146 ~~telecommunications company in accordance with s. 364.164 shall~~  
 1147 ~~decrease its intrastate long distance revenues by the amount~~  
 1148 ~~necessary to return the benefits of such reduction to both its~~

1149 ~~residential and business customers. The intrastate interexchange~~  
1150 ~~telecommunications company may determine the specific intrastate~~  
1151 ~~rates to be decreased, provided that residential and business~~  
1152 ~~customers benefit from the rate decreases. Any in state~~  
1153 ~~connection fee or similarly named fee shall be eliminated by~~  
1154 ~~July 1, 2006, provided that the timetable determined pursuant to~~  
1155 ~~s. 364.164(1) reduces intrastate switched network access rates~~  
1156 ~~in an amount that results in the elimination of such fee in a~~  
1157 ~~revenue neutral manner. The tariff changes, if any, made by the~~  
1158 ~~intrastate interexchange telecommunications company to carry out~~  
1159 ~~the requirements of this subsection shall be presumed valid and~~  
1160 ~~shall become effective on 1 day's notice.~~

1161 ~~(3) The commission shall have continuing regulatory~~  
1162 ~~oversight of intrastate switched network access and customer~~  
1163 ~~long distance rates for purposes of determining the correctness~~  
1164 ~~of any rate decrease by a telecommunications company resulting~~  
1165 ~~from the application of s. 364.164 and making any necessary~~  
1166 ~~adjustments to those rates.~~

1167 Section 13. Subsection (4) is added to section 364.385,  
1168 Florida Statutes, to read:

1169 364.385 Saving clauses.--

1170 (4) The rates and charges for basic local  
1171 telecommunications service and network access service approved  
1172 by the commission in accordance with the decisions set forth in  
1173 Orders Nos. PSC 03-1469-FOF-TL and PSC 04-0456-FOF-TL, and which  
1174 are in effect immediately prior to July 1, 2007, shall remain in  
1175 effect and such rates and charges may not be changed after the  
1176 effective date of this act, except in accordance with the

1177 provisions of ss.364.051 and 364.163.

1178 Section 14. Sections 166.046 and 364.164, Florida  
 1179 Statutes, are repealed.

1180 Section 15. Section 501.2079, Florida Statutes, is created  
 1181 to read:

1182 501.2079 Violations involving discrimination in the  
 1183 provision of video services.--

1184 (1) As used in this section, the term:

1185 (a) "Cable service" has the same meaning as in s.  
 1186 610.103(1).

1187 (b) "Video service" has the same meaning as in s.  
 1188 610.103(11).

1189 (c) "Resident" means a resident residing within a service  
 1190 area as set out in ss. 610.104(2)(e)5. and 610.104(6).

1191 (d) "Provider" means a cable or video service provider  
 1192 that has been issued and holds a statutory certificate of  
 1193 franchise authority from the Department of State.

1194 (e) "Discrimination" means the denial of access to cable  
 1195 or video service to any individual or group of residents because  
 1196 of the race or income of the residents in the local area in  
 1197 which such individual or group resides. Such discrimination  
 1198 shall be prohibited as to residents throughout the service area  
 1199 of the municipality or county within which service is provided.

1200 (2) Discrimination among residents by a provider of cable  
 1201 or video services is declared unlawful and constitutes a  
 1202 violation of this section.

1203 (3) For purposes of determining whether a provider has  
 1204 violated subsection (2), a cable or video service provider may

1205 satisfy the nondiscrimination requirements of this section  
1206 through the use of alternative technology that offers service,  
1207 functionality, and content that is demonstrably similar to that  
1208 provided through the provider's system and may include a  
1209 technology that does not require the use of any public right-of-  
1210 way. The technology used to comply with the requirements of this  
1211 section is subject to all the requirements of chapter 610. If a  
1212 provider makes cable or video service available within a  
1213 reasonable period of time from the initiation of service to  
1214 residents in its service area, the provider shall be presumed to  
1215 be in compliance with subsection (2). A provider is not required  
1216 to offer or provide service to end users residing in an area  
1217 having a density of fewer than 30 homes per linear cable mile  
1218 from the provider's nearest activated video distribution plant.  
1219 This section does not impose a buildout requirement.

1220 (4) For purposes of determining whether a provider has  
1221 violated subsection (2), cost, density, distance, and  
1222 technological or commercial limitations shall be taken into  
1223 account. The inability to provide access to cable or video  
1224 service because a provider is prohibited from placing its own  
1225 facilities in a building or property or due to natural disasters  
1226 is not a violation of subsection (2).

1227 (5) Enforcement of this section shall be as provided in  
1228 ss. 501.206, 501.207 and 501.211.

1229 (6) Upon a finding by a court of competent jurisdiction  
1230 that a provider has engaged in unlawful discrimination, the  
1231 provider shall have a reasonable period of time as specified by  
1232 the court to cure such noncompliance. If the provider fails to

1233 cure within a specified time, any provider who is found to have  
1234 violated subsection (2) is liable for a civil penalty of not  
1235 more than \$15,000 for each such violation. For purposes of this  
1236 section, discrimination against each individual member of a  
1237 group constitutes a separate violation and is subject to a  
1238 separate penalty as set forth in this section.

1239 Section 16. This act shall take effect upon becoming a  
1240 law.