

By the Committees on Community Affairs; Communications and Public Utilities; and Senator Bennett

578-2547-07

1 A bill to be entitled  
 2 An act relating to communications; providing a  
 3 short title; amending s. 202.11, F.S.;  
 4 providing a definition; amending s. 202.24,  
 5 F.S.; prohibiting counties and municipalities  
 6 from negotiating terms and conditions relating  
 7 to cable and video services; deleting  
 8 authorization to negotiate; revising  
 9 application to existing ordinances or franchise  
 10 agreements; amending s. 337.401, F.S.; deleting  
 11 authorization for counties and municipalities  
 12 to award cable service franchises and a  
 13 restriction that cable service companies not  
 14 operate without such a franchise; amending s.  
 15 337.4061, F.S.; revising definitions;  
 16 prohibiting the use of certain rights-of-way  
 17 without a franchise authority; creating ss.  
 18 610.102, 610.103, 610.104, 610.105, 610.107,  
 19 610.108, 610.109, 610.113, 610.114, 610.115,  
 20 610.116, 610.117, 610.118, and 610.119, F.S.;  
 21 designating the Department of State as the  
 22 authorizing authority; providing definitions;  
 23 requiring state authorization to provide cable  
 24 and video services; providing requirements and  
 25 procedures; providing for fees; providing  
 26 duties and responsibilities of the Department  
 27 of State; providing application procedures and  
 28 requirements; providing for issuing  
 29 certificates of franchise authority; providing  
 30 eligibility requirements and criteria for a  
 31 certificate; providing for amending a

1 certificate; providing for transferability of  
2 certificates; providing for termination of  
3 certificates under certain circumstances;  
4 providing for challenging a department  
5 rejection of an application; providing that the  
6 department shall function in a ministerial  
7 capacity for certain purposes; providing for an  
8 application form; providing for an application  
9 fee; requiring certain information updates;  
10 providing for a processing fee; providing for  
11 cancellation upon notice that information  
12 updates and processing fees are not received;  
13 providing for an opportunity to cure; providing  
14 for transfer of such fees to the Department of  
15 Agriculture and Consumer Services; requiring  
16 the department to maintain a separate account  
17 for cable franchise revenues; providing for  
18 fees to the Department of State for certain  
19 activities; continuation of existing local  
20 franchise agreements; preempting local  
21 franchise agreements with respect to buildout  
22 and customer service standards; providing an  
23 exception; limiting franchise fees for a  
24 state-issued certificate; prohibiting the  
25 department from imposing additional taxes,  
26 fees, or charges on a cable or video service  
27 provider to issue a certificate; imposing  
28 certain customer service requirements on cable  
29 service providers; requiring the Department of  
30 Agriculture and Consumer Services to receive  
31 customer service complaints; providing for

1 continuation of public, educational, and  
2 governmental access channels or capacity  
3 equivalent; providing criteria, requirements,  
4 and procedures for activation of public,  
5 educational, and governmental access channels  
6 or capacity equivalent for certain counties and  
7 municipalities after a date certain; providing  
8 for support of public, educational, and  
9 governmental access channels after a date  
10 certain; providing for payment by nonincumbent  
11 certificateholders of certain amounts to  
12 municipalities and counties under certain  
13 circumstances; providing procedures for payment  
14 of such amounts; providing limitations on local  
15 authority requirements; providing for  
16 enforcement; providing requirements for a  
17 request for enforcement; providing for a period  
18 of time to cure certain noncompliance;  
19 providing for the use of alternative  
20 technology; authorizing waivers or extensions  
21 of time to meet such requirements; providing a  
22 definition; providing for enforcement and the  
23 adoption of rules; clarifying local government  
24 and department authority over communications  
25 services; requiring cable and video service  
26 providers to provide internet or cable or video  
27 service to certain education and government  
28 facilities; requiring the Office of Program  
29 Policy Analysis and Government Accountability  
30 to report to the Legislature on the status of  
31 competition in the cable and video service

1 industry; providing report requirements;  
2 requiring the Department of Agriculture and  
3 Consumer Services to make recommendations to  
4 the Legislature; providing duties of the  
5 Department of State; providing severability;  
6 amending ss. 350.81 and 364.0361, F.S.;  
7 conforming cross-references; amending s.  
8 364.051, F.S.; deleting provisions under which  
9 certain telecommunications companies may elect  
10 alternative regulation; amending s. 364.10,  
11 F.S.; requiring each state agency that  
12 determines that a person is eligible for  
13 Lifeline service to act immediately to ensure  
14 that the person is enrolled in the Lifeline  
15 service program; requiring a state agency to  
16 include an option for not subscribing to the  
17 program; requiring that the Public Service  
18 Commission and the Department of Children and  
19 Family Services adopt rules by a specified  
20 date; requiring the Public Service Commission,  
21 the Department of Children and Family Services,  
22 and the Office of Public Counsel to enter into  
23 a memorandum of understanding regarding their  
24 respective duties under the Lifeline service  
25 program; amending s. 364.163, F.S.; providing  
26 for a cap on certain switched network access  
27 service rates; deleting a time period in which  
28 intrastate access rates are capped; prohibiting  
29 interexchange telecommunications companies from  
30 instituting any intrastate connection fee;  
31 deleting provisions for regulatory oversight of

1 intrastate access rates; amending s. 364.385,  
2 F.S.; providing for continuing effect of  
3 certain rates and charges approved by the  
4 Public Service Commission; providing for an  
5 exception; repealing s. 166.046, F.S., relating  
6 to definitions and minimum standards for cable  
7 television franchises imposed upon counties and  
8 municipalities; repealing s. 364.164, F.S.,  
9 relating to competitive market enhancement;  
10 providing an effective date.

11  
12 Be It Enacted by the Legislature of the State of Florida:

13  
14 Section 1. This act may be cited as the "Consumer  
15 Choice Act of 2007."

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

18 202.11 Definitions.--As used in this chapter:

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

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

23 202.24 Limitations on local taxes and fees imposed on  
24 dealers of communications services.--

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

27 1. Levying on or collecting from dealers or purchasers  
28 of communications services any tax, charge, fee, or other  
29 imposition on or with respect to the provision or purchase of  
30 communications services.  
31

1           2. Requiring any dealer of communications services to  
2 enter into or extend the term of a franchise or other  
3 agreement that requires the payment of a tax, charge, fee, or  
4 other imposition.

5           3. Adopting or enforcing any provision of any  
6 ordinance or agreement to the extent that such provision  
7 obligates a dealer of communications services to charge,  
8 collect, or pay to the public body a tax, charge, fee, or  
9 other imposition.

10  
11 Municipalities and counties may not ~~Each municipality and~~  
12 ~~county retains authority to negotiate all terms and conditions~~  
13 ~~of a cable service franchise allowed by federal and state law~~  
14 ~~except~~ those terms and conditions related to franchise fees or  
15 ~~and~~ the definition of gross revenues or other definitions or  
16 methodologies related to the payment or assessment of  
17 franchise fees on providers of cable or video services.

18           (c) This subsection does not apply to:

19           1. Local communications services taxes levied under  
20 this chapter.

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

22           3. Occupational license taxes levied under chapter  
23 205.

24           4. "911" service charges levied under chapter 365.

25           5. Amounts charged for the rental or other use of  
26 property owned by a public body which is not in the public  
27 rights-of-way to a dealer of communications services for any  
28 purpose, including, but not limited to, the placement or  
29 attachment of equipment used in the provision of  
30 communications services.

31

1           6. Permit fees of general applicability which are not  
2 related to placing or maintaining facilities in or on public  
3 roads or rights-of-way.

4           7. Permit fees related to placing or maintaining  
5 facilities in or on public roads or rights-of-way pursuant to  
6 s. 337.401.

7           8. Any in-kind requirements, institutional networks,  
8 or contributions for, or in support of, the use or  
9 construction of public, educational, or governmental access  
10 facilities allowed under federal law and imposed on providers  
11 of cable or video service pursuant to any existing ordinance  
12 or an existing franchise agreement granted by each  
13 municipality or county, under which ordinance or franchise  
14 agreement service is provided prior to July 1, 2007, or as  
15 permitted under chapter 610. Nothing in this subparagraph  
16 shall prohibit the ability of providers of cable or video  
17 service to recover such expenses as allowed under federal law.

18           9. Special assessments and impact fees.

19           10. Pole attachment fees that are charged by a local  
20 government for attachments to utility poles owned by the local  
21 government.

22           11. Utility service fees or other similar user fees  
23 for utility services.

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

28           Section 4. Paragraphs (a), (b), (e), and (f) of  
29 subsection (3) of section 337.401, Florida Statutes, are  
30 amended to read:  
31

1           337.401 Use of right-of-way for utilities subject to  
2 regulation; permit; fees.--

3           (3)(a)~~1-~~ Because of the unique circumstances  
4 applicable to providers of communications services, including,  
5 but not limited to, the circumstances described in paragraph  
6 (e) and the fact that federal and state law require the  
7 nondiscriminatory treatment of providers of telecommunications  
8 services, and because of the desire to promote competition  
9 among providers of communications services, it is the intent  
10 of the Legislature that municipalities and counties treat  
11 providers of communications services in a nondiscriminatory  
12 and competitively neutral manner when imposing rules or  
13 regulations governing the placement or maintenance of  
14 communications facilities in the public roads or  
15 rights-of-way. Rules or regulations imposed by a municipality  
16 or county relating to providers of communications services  
17 placing or maintaining communications facilities in its roads  
18 or rights-of-way must be generally applicable to all providers  
19 of communications services and, notwithstanding any other law,  
20 may not require a provider of communications services, ~~except~~  
21 ~~as otherwise provided in subparagraph 2.,~~ to apply for or  
22 enter into an individual license, franchise, or other  
23 agreement with the municipality or county as a condition of  
24 placing or maintaining communications facilities in its roads  
25 or rights-of-way. In addition to other reasonable rules or  
26 regulations that a municipality or county may adopt relating  
27 to the placement or maintenance of communications facilities  
28 in its roads or rights-of-way under this subsection, a  
29 municipality or county may require a provider of  
30 communications services that places or seeks to place  
31 facilities in its roads or rights-of-way to register with the



1 | municipality or county and to provide the name of the  
2 | registrant; the name, address, and telephone number of a  
3 | contact person for the registrant; the number of the  
4 | registrant's current certificate of authorization issued by  
5 | the Florida Public Service Commission, ~~or~~ the Federal  
6 | Communications Commission, or the Department of State; and  
7 | proof of insurance or self-insuring status adequate to defend  
8 | and cover claims.

9 |       2. ~~Notwithstanding the provisions of subparagraph 1.,~~  
10 | ~~a municipality or county may, as provided by 47 U.S.C. s. 541,~~  
11 | ~~award one or more franchises within its jurisdiction for the~~  
12 | ~~provision of cable service, and a provider of cable service~~  
13 | ~~shall not provide cable service without such franchise. Each~~  
14 | ~~municipality and county retains authority to negotiate all~~  
15 | ~~terms and conditions of a cable service franchise allowed by~~  
16 | ~~federal law and s. 166.046, except those terms and conditions~~  
17 | ~~related to franchise fees and the definition of gross revenues~~  
18 | ~~or other definitions or methodologies related to the payment~~  
19 | ~~or assessment of franchise fees and permit fees as provided in~~  
20 | ~~paragraph (c) on providers of cable services. A municipality~~  
21 | ~~or county may exercise its right to require from providers of~~  
22 | ~~cable service in kind requirements, including, but not limited~~  
23 | ~~to, institutional networks, and contributions for, or in~~  
24 | ~~support of, the use or construction of public, educational, or~~  
25 | ~~governmental access facilities to the extent permitted by~~  
26 | ~~federal law. A provider of cable service may exercise its~~  
27 | ~~right to recover any such expenses associated with such~~  
28 | ~~in kind requirements, to the extent permitted by federal law.~~

29 |       (b) Registration described in paragraph ~~subparagraph~~  
30 | (a)~~1-~~ does not establish a right to place or maintain, or  
31 | priority for the placement or maintenance of, a communications

1 facility in roads or rights-of-way of a municipality or  
2 county. Each municipality and county retains the authority to  
3 regulate and manage municipal and county roads or  
4 rights-of-way in exercising its police power. Any rules or  
5 regulations adopted by a municipality or county which govern  
6 the occupation of its roads or rights-of-way by providers of  
7 communications services must be related to the placement or  
8 maintenance of facilities in such roads or rights-of-way, must  
9 be reasonable and nondiscriminatory, and may include only  
10 those matters necessary to manage the roads or rights-of-way  
11 of the municipality or county.

12 (e) The authority of municipalities and counties to  
13 require franchise fees from providers of communications  
14 services, with respect to the provision of communications  
15 services, is specifically preempted by the state, ~~except as~~  
16 ~~otherwise provided in subparagraph (a)2.~~, because of unique  
17 circumstances applicable to providers of communications  
18 services when compared to other utilities occupying municipal  
19 or county roads or rights-of-way. Providers of communications  
20 services may provide similar services in a manner that  
21 requires the placement of facilities in municipal or county  
22 roads or rights-of-way or in a manner that does not require  
23 the placement of facilities in such roads or rights-of-way.  
24 Although similar communications services may be provided by  
25 different means, the state desires to treat providers of  
26 communications services in a nondiscriminatory manner and to  
27 have the taxes, franchise fees, and other fees paid by  
28 providers of communications services be competitively neutral.  
29 Municipalities and counties retain all existing authority, if  
30 any, to collect franchise fees from users or occupants of  
31 municipal or county roads or rights-of-way other than

1 providers of communications services, and the provisions of  
2 this subsection shall have no effect upon this authority. The  
3 provisions of this subsection do not restrict the authority,  
4 if any, of municipalities or counties or other governmental  
5 entities to receive reasonable rental fees based on fair  
6 market value for the use of public lands and buildings on  
7 property outside the public roads or rights-of-way for the  
8 placement of communications antennas and towers.

9 (f) Except as expressly allowed or authorized by  
10 general law and except for the rights-of-way permit fees  
11 subject to paragraph (c), a municipality or county may not  
12 levy on a provider of communications services a tax, fee, or  
13 other charge or imposition for operating as a provider of  
14 communications services within the jurisdiction of the  
15 municipality or county which is in any way related to using  
16 its roads or rights-of-way. A municipality or county may not  
17 require or solicit in-kind compensation, except as otherwise  
18 provided in s. 202.24(2)(c)8. or s. 610.109 ~~subparagraph (a)2.~~  
19 Nothing in this paragraph shall impair any ordinance or  
20 agreement in effect on May 22, 1998, or any voluntary  
21 agreement entered into subsequent to that date, which provides  
22 for or allows in-kind compensation by a telecommunications  
23 company.

24 Section 5. Section 337.4061, Florida Statutes, is  
25 amended to read:

26 337.4061 Definitions; unlawful use of state-maintained  
27 road right-of-way by nonfranchised cable and video ~~television~~  
28 services.--

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

30 (a) "Cable service" means:  
31

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

3           2. Subscriber interaction, if any, which is required  
4 for the selection or use of such video programming or other  
5 programming service.

6           (b) "Cable system" means a facility, consisting of a  
7 set of closed transmission paths and associated signal  
8 generation, reception, and control equipment that is designed  
9 to provide cable service which includes video programming and  
10 which is provided to multiple subscribers within a community,  
11 but such term does not include:

12           1. A facility that serves only to retransmit the  
13 television signals of one or more television broadcast  
14 stations;

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

19           3. A facility that serves subscribers without using  
20 any public right-of-way.

21           ~~4.3-~~ A facility of a common carrier that is subject,  
22 in whole or in part, to the provisions of Title II of the  
23 federal Communications Act of 1934, except that such facility  
24 shall be considered a cable system other than for purposes of  
25 47 U.S.C. Section 541(c) to the extent such facility is used  
26 in the transmission of video programming directly to  
27 subscribers, unless the extent of such use is solely to  
28 provide interactive on-demand services; or

29           ~~5.4-~~ Any facilities of any electric utility used  
30 solely for operating its electric utility systems; or-  
31

1           6. An open video system that complies with 47 U.S.C.  
2 Section 573.

3           (c) "Franchise" means an initial authorization or  
4 renewal thereof issued by a franchising authority, whether  
5 such authorization is designated as a franchise, permit,  
6 license, resolution, contract, certificate, agreement, or  
7 otherwise, which authorizes the construction or operation of a  
8 cable system or video service provider network facilities.

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

12           (e) "Person" means an individual, partnership,  
13 association, joint stock company, trust, corporation, or  
14 governmental entity.

15           (f) "Video programming" means programming provided by  
16 or generally considered comparable to programming provided by  
17 a television broadcast station or cable system.

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

20           (2) It is unlawful to use the right-of-way of any  
21 state-maintained road, including appendages thereto, and also  
22 including, but not limited to, rest areas, wayside parks,  
23 boat-launching ramps, weigh stations, and scenic easements, to  
24 provide for cable or video service over facilities ~~purposes~~  
25 within a geographic area subject to a valid existing franchise  
26 for cable or video service, unless the cable or video service  
27 provider ~~system~~ using such right-of-way holds a franchise from  
28 a franchise authority ~~the municipality or county~~ for the area  
29 in which the right-of-way is located.

30           (3) A violation of this section shall be deemed a  
31 violation of s. 337.406.

1           Section 6. Sections 610.102, 610.103, 610.104,  
2 610.105, 610.106, 610.107, 610.108, 610.109, 610.112, 610.113,  
3 610.114, 610.115, 610.116, 610.117, and 620.118, Florida  
4 Statutes, are created to read:

5           610.102 Department of State authority to issue  
6 statewide cable and video franchise.--The department shall be  
7 designated as the franchising authority for a state-issued  
8 franchise for the provision of cable or video service. A  
9 municipality or county may not grant a new franchise for the  
10 provision of cable or video service within its jurisdiction.

11           610.103 Definitions.--As used in ss. 610.102-610.117:

12           (1) "Cable service" means:

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

15           (b) Subscriber interaction, if any, that is required  
16 for the selection or use of such video programming or other  
17 programming service.

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

20           (3) "Cable system" means a facility consisting of a  
21 set of closed transmission paths and associated signal  
22 generation, reception, and control equipment that is designed  
23 to provide cable service that includes video programming and  
24 that is provided to multiple subscribers within a community,  
25 but such term does not include:

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

29           (b) A facility that serves only subscribers in one or  
30 more multiple-unit dwellings under common ownership, control,  
31

1 or management, unless such facility or facilities use any  
2 public right-of-way;

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

5 (d) A facility of a common carrier that is subject, in  
6 whole or in part, to the provisions of Title II of the federal  
7 Communications Act of 1934 except that such facility shall be  
8 considered a cable system other than for purposes of 47 U.S.C.  
9 Section 541(c) to the extent such facility is used in the  
10 transmission of video programming directly to subscribers,  
11 unless the extent of such use is solely to provide interactive  
12 on-demand services;

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

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

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

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

21 (6) "Franchise" means an initial authorization or  
22 renewal of an authorization, regardless of whether the  
23 authorization is designated as a franchise, permit, license,  
24 resolution, contract, certificate, agreement, or otherwise, to  
25 construct and operate a cable system or video service provider  
26 network facilities in the public right-of-way.

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

30 (8) "Incumbent cable service provider" means the cable  
31 service provider serving the largest number of cable

1 subscribers in a particular municipal or county franchise area  
2 on July 1, 2007.

3 (9) "Video programming" means programming provided by,  
4 or generally considered comparable to programming provided by,  
5 a television broadcast station as set forth in 47 U.S.C. s.  
6 522(20).

7 (10) "Video service" means video programming services,  
8 including cable services, provided through wireline facilities  
9 located at least in part in the public rights-of-way without  
10 regard to delivery technology, including Internet protocol  
11 technology. This definition does not include any video  
12 programming provided by a commercial mobile service provider  
13 as defined in 47 U.S.C. s. 332(d), video programming provided  
14 as part of, and via a cable service that enables end users to  
15 access content, information, electronic mail, or other  
16 services offered over the public Internet.

17 (11) "Video service provider" means an entity  
18 providing video service.

19 610.104 State authorization to provide cable or video  
20 service.--

21 (1) An entity or person seeking to provide cable or  
22 video service in this state after July 1, 2007, shall file an  
23 application for a state-issued certificate of franchise  
24 authority with the department as required by this section. An  
25 entity or person providing cable or video service under an  
26 unexpired franchise agreement with a municipality or county as  
27 of July 1, 2007, is not subject to this subsection with  
28 respect to providing service in such municipality or county  
29 until the franchise agreement expires. An entity or person  
30 providing cable or video service may seek authorization from  
31 the department to provide service in areas where the entity or



1 person currently does not have an existing franchise agreement  
2 as of July 1, 2007.

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

7 (a) The official name of the cable or video service  
8 provider.

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

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

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

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

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

22 2. That the applicant has filed or will timely file  
23 with the Federal Communications Commission all forms required  
24 by that agency in advance of offering cable or video service  
25 in this state.

26 3. That the applicant agrees to comply with all  
27 applicable federal and state laws and regulations.

28 4. That the applicant agrees to comply with all state  
29 laws and rules and municipal and county ordinances and  
30 regulations regarding the placement and maintenance of  
31 communications facilities in the public rights-of-way.

1           5. A description of the service area for which the  
2 applicant seeks a certificate of franchise authority, provided  
3 on a municipal or countywide basis. The description may be  
4 provided in a manner that does not disclose competitively  
5 sensitive information. For existing incumbent cable or video  
6 service providers that have existing communications  
7 facilities, the service area shall be coextensive with the  
8 provider's existing network boundaries within the political  
9 boundaries of the local jurisdiction where video services are  
10 provided. For applicants using telecommunications facilities  
11 to provide video services, the service area shall be  
12 coextensive with all of the provider's wire centers or  
13 exchanges within the political boundaries of the local  
14 jurisdiction where video services are provided.

15           6. The location of the applicant's principal place of  
16 business, the names of the applicant's principal executive  
17 officers, and a physical address sufficient for the purposes  
18 of chapter 48.

19           7. That the applicant will file with the department a  
20 notice of commencement of service within 5 business days after  
21 first providing service in each area described in subparagraph  
22 5.

23           8. A statement affirming that the applicant will  
24 notify the department of any change of address or contact  
25 person.

26           9. That the applicant's system will have the  
27 capability of allowing a local government emergency operations  
28 official, as determined by applicable law, to remotely  
29 override the audio of all channels or a video crawl over all  
30 channels on the system without charge for use during emergency  
31 or disaster periods.

1           (3) Before the 10th business day after the department  
2 receives the application, the department shall notify the  
3 applicant whether the application and affidavit described in  
4 subsection (2) are complete. If the department rejects the  
5 application and affidavit, the department shall specify with  
6 particularity the reasons for the rejection and permit the  
7 applicant to amend the application or affidavit to cure any  
8 deficiency. The department shall act upon the amended  
9 application or affidavit within 10 business days after the  
10 department's receipt of the amended application or affidavit.

11           (4) The department shall issue a certificate of  
12 franchise authority to the applicant before the 15th business  
13 day after receipt of an accepted application. The certificate  
14 of franchise authority issued by the department shall contain:

15           (a) The name of the certificateholder and its  
16 identification number.

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

19           (c) A grant of authority to construct, maintain, and  
20 operate facilities through, upon, over, and under any public  
21 right-of-way or waters subject to applicable governmental  
22 permitting or authorization from the Board of Trustees of the  
23 Internal Improvement Trust Fund.

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

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

29           (f) A statement that includes the effective date of  
30 the commencement of this authority.

31

1           (5) If the department fails to act on the accepted  
2 application within 30 business days after receiving the  
3 accepted application, the application shall be deemed approved  
4 by the department without further action.

5           (6) A certificateholder that seeks to include  
6 additional service areas in its current certificate shall file  
7 an amendment to the certificate with the department. Such  
8 amendment shall specify the name and address of the  
9 certificateholder, the new service area or areas to be served,  
10 and the effective date of commencement of operations in the  
11 new service area or areas. Such amendment shall be filed with  
12 the department within 5 business days after first providing  
13 service in each such additional area.

14           (7) The certificate of franchise authority issued by  
15 the department is fully transferable to any successor in  
16 interest to the applicant to which the certificate is  
17 initially granted. A notice of transfer shall be filed with  
18 the department and the relevant municipality or county within  
19 14 business days following the completion of such transfer.

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

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

26           (10) In executing the provisions of this section, the  
27 department shall function in a ministerial capacity accepting  
28 information contained in the application and affidavit at face  
29 value. The applicant shall ensure continued compliance with  
30 all applicable business formation, registration, and taxation  
31 provisions of law.

1           (11) The application shall be accompanied by a  
2 one-time fee of \$10,000. A parent company may file a single  
3 application covering itself and all of its subsidiaries and  
4 affiliates intending to provide cable or video service in the  
5 service areas throughout the state as described in paragraph  
6 (3)(d), but the entity actually providing such service in a  
7 given area shall otherwise be considered the certificateholder  
8 under this act.

9           (12) Beginning 5 years after approval of the  
10 certificateholder's initial certificate of franchise issued by  
11 the department, and every 5 years thereafter, the  
12 certificateholder shall update the information contained in  
13 the original application for a certificate of franchise. At  
14 the time of filing the information update, the  
15 certificateholder shall pay a processing fee of \$1,000. Any  
16 certificateholder that fails to file the updated information  
17 and pay the processing fee on the 5-year anniversary dates  
18 shall be subject to cancellation of its state-issued  
19 certificate of franchise authority if, upon notice given to  
20 the certificateholder at its last address on file with the  
21 department, the certificateholder fails to file the updated  
22 information and pay the processing fee within 30 days after  
23 the date notice was mailed. The application and processing  
24 fees imposed in this section shall be paid to the Department  
25 of State for deposit into the Operating Trust Fund for  
26 immediate transfer by the Chief Financial Officer to the  
27 General Inspection Trust Fund of the Department of Agriculture  
28 and Consumer Services. The Department of Agriculture and  
29 Consumer Services shall maintain a separate account within the  
30 General Inspection Trust Fund to distinguish cable franchise  
31 revenues from all other funds. The application, any amendments

1 to the certificate, or information updates must be accompanied  
2 by a fee to the Department of State equal to that for filing  
3 articles of incorporation pursuant to s. 607.0122(1).

4 610.105 Eligibility for state-issued franchise.--

5 (1) A cable or video service provider that has an  
6 existing, unexpired franchise to provide cable service with  
7 respect to a municipality or county as of July 1, 2007, is not  
8 eligible to apply for a state-issued certificate of franchise  
9 authority under this chapter as to that municipality or county  
10 until the expiration date of the existing franchise agreement.

11 (2) For purposes of this section, a cable or video  
12 service provider will be deemed to have or have had a  
13 franchise to provide cable or video service in a specific  
14 municipality or county if any affiliate or successor entity of  
15 the cable or video service provider has or had an unexpired  
16 franchise agreement granted by that specific municipality or  
17 county as of July 1, 2007.

18 (3) The term "affiliate or successor entity" in this  
19 section refers to an entity receiving, obtaining, or operating  
20 under a franchise that directly or indirectly owns or  
21 controls, is owned or controlled by, or is under common  
22 ownership or control with the cable or video service provider.

23 (4) Any cable or video service provider that has an  
24 existing, unexpired franchise to provide cable or video  
25 service with respect to a municipality or county as of July 1,  
26 2007, is not required to comply with the provisions of that  
27 franchise which relate to buildout or customer service  
28 standards, which are expressly preempted by ss. 610.107 and  
29 610.108, except that in any municipality or county in which  
30 there exist franchises with an incumbent cable or video  
31 service provider, and one or more nonincumbent cable or

1 service providers, and two or more of those franchises contain  
2 buildout requirements, such requirements shall remain  
3 effective for the term of the franchises.

4 610.106 Franchise fees prohibited.--Except as  
5 otherwise provided in this chapter, the department may not  
6 impose any taxes, fees, charges, or other impositions on a  
7 cable or video service provider as a condition for the  
8 issuance of a state-issued certificate of franchise authority.

9 610.107 Buildout.--No franchising authority, state  
10 agency, or political subdivision may impose any buildout,  
11 system construction, or service deployment requirements on a  
12 certificateholder.

13 610.108 Customer service standards.--

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

16 (2) Any municipality or county that as of January 1,  
17 2007, has an office or department dedicated to responding to  
18 cable or video service customer complaints may continue to  
19 respond to such complaints until July 1, 2009. Beginning on  
20 July 1, 2009, the Department of Agriculture and Consumer  
21 Services shall have the sole authority to respond to all cable  
22 or video service customer complaints. This provision shall not  
23 be construed to permit the municipality, county, or department  
24 to impose customer service standards inconsistent with the  
25 requirements in 47 C.F.R. s. 76.309(c).

26 (3) The Department of Agriculture and Consumer  
27 Services shall receive service quality complaints from  
28 customers of a cable or video service provider and shall  
29 address such complaints in an expeditious manner by assisting  
30 in the resolution of such complaint between the complainant  
31 and the cable or video service provider. The Department of

1 Agriculture and Consumer Services may adopt any procedural  
2 rules pursuant to ss. 120.536(1) and 120.54 necessary to  
3 administer this section, but shall not have any authority to  
4 impose any customer service requirements inconsistent with  
5 those contained in 47 C.F.R. s. 76.309(c).

6 610.109 Public, educational, and governmental access  
7 channels.--

8 (1) A certificateholder, not later than 90 days  
9 following a request by a municipality or county within whose  
10 jurisdiction the certificateholder is providing cable or video  
11 service, shall designate a sufficient amount of capacity on  
12 its network to allow the provision of public, educational, and  
13 governmental access channels for noncommercial programming as  
14 set forth in this section.

15 (2) A certificateholder shall designate a sufficient  
16 amount of capacity on its network to allow the provision of a  
17 comparable number of public, educational, and governmental  
18 access channels or capacity equivalent that a municipality or  
19 county has activated under the incumbent cable service  
20 provider's franchise agreement as of July 1, 2007. For the  
21 purposes of this section, a public, educational, or  
22 governmental channel is deemed activated if the channel is  
23 being used for public, educational, or governmental  
24 programming within the municipality or county. The  
25 municipality or county may request additional channels or  
26 capacity permitted under the incumbent cable service  
27 provider's franchise agreement as of July 1, 2007. A cable or  
28 video service provider shall locate any public, educational,  
29 or governmental access channel on any tier of service offered  
30 which is viewed by 100 percent of the provider's subscribers.

31



1       (3) If a municipality or county did not have public,  
2 educational, or governmental access channels activated under  
3 the incumbent cable service provider's franchise agreement as  
4 of July 1, 2007, not later than 6 months following a request  
5 by the municipality or county within whose jurisdiction a  
6 certificateholder is providing cable or video service, the  
7 cable or video service provider shall furnish up to two  
8 public, educational, or governmental channels or capacity  
9 equivalent. The usage of the channels or capacity equivalent  
10 shall be determined by a majority of all the provider's  
11 subscribers in the jurisdiction, in order of preference of all  
12 cable subscribers. Cable subscribers must be provided with  
13 clear, plain language informing them that public access is  
14 unfiltered programming and contains adult content.

15       (4) If a municipality or county has not used the  
16 number of access channels or capacity equivalent permitted by  
17 subsection (3), access to the additional channels or capacity  
18 equivalent allowed in subsection (3) shall be provided upon 6  
19 months' written notice.

20       (5) The operation of any public, educational, or  
21 governmental access channel or capacity equivalent provided  
22 under this section shall be the responsibility of the  
23 municipality or county receiving the benefit of such channel  
24 or capacity equivalent, and a certificateholder bears only the  
25 responsibility for the transmission of such channel content. A  
26 certificateholder shall be responsible for providing the  
27 connectivity to each public, educational, or governmental  
28 access channel distribution point.

29       (6) Where technically feasible, a certificateholder  
30 and an incumbent cable service provider shall use reasonable  
31 efforts to interconnect their networks for the purpose of

1 providing public, educational, and governmental programming.  
2 Interconnection may be accomplished by direct cable, microwave  
3 link, satellite, or other reasonable method of connection.  
4 Certificateholders and incumbent cable service providers shall  
5 negotiate in good faith and incumbent cable service providers  
6 may not withhold interconnection of public, educational, and  
7 governmental channels.

8       (7) A certificateholder is not required to  
9 interconnect for, or otherwise to transmit, public,  
10 educational, and governmental content that is branded with the  
11 logo, name, or other identifying marks of another cable or  
12 video service provider, and a municipality or county may  
13 require a cable or video service provider to remove its logo,  
14 name, or other identifying marks from public, educational, and  
15 governmental content that is to be made available to another  
16 provider.

17       (8) A municipality or county that has activated at  
18 least one public, educational, or governmental access channel  
19 pursuant to this section may require cable or video service  
20 providers to remit PEG and I-Net support contributions in an  
21 amount equal to a lump-sum or recurring per-subscriber funding  
22 obligation to support public, educational, and governmental  
23 access channels, institutional networks, or other related  
24 costs as provided for in the incumbent's franchise that exists  
25 prior to July 1, 2007. If a municipality or county has not  
26 required cable or video service providers to remit PEG and  
27 I-Net support contributions prior to July 1, 2007, a  
28 municipality or county may require cable or video service  
29 providers to remit PEG and I-Net support contributions not to  
30 exceed that of an adjacent local government. If no adjacent  
31 local government has required PEG and I-Net support

1 contributions, the municipality or county may require cable or  
2 video service providers to remit PEG and I-Net support  
3 contributions consistent with a municipality or county having  
4 a comparable population.

5 (9) A court of competent jurisdiction shall have  
6 exclusive jurisdiction to enforce any requirement under this  
7 section.

8 610.113 Limitation on local authority.--A municipality  
9 or county may not impose on activities of a certificateholder  
10 a requirement:

11 (1) That particular business offices be located in the  
12 municipality or county;

13 (2) Regarding the filing of reports and documents with  
14 the municipality or county that are not required by state law;

15 (3) For the inspection of a certificateholder's  
16 business records; or

17 (4) For the approval of transfers of ownership or  
18 control of a certificateholder's business, except that a  
19 municipality or county may require a certificateholder to  
20 provide notice of a transfer within a reasonable time.

21 610.114 Discrimination prohibited.--

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

24 (2) A video service provider may not deny access to  
25 service to any group of potential residential subscribers  
26 because of the race, income, or ethnicity of the residents in  
27 the local area in which the group resides.

28 (3) For purposes of determining whether a  
29 certificateholder has violated subsection (2), the  
30 certificateholder shall have a reasonable time to deploy  
31 service to customers within the service area designated under

1 this act. Within 3 years after the date a certificateholder  
2 begins providing video service in a service area, the  
3 certificateholder shall provide access to video services to at  
4 least 25 percent of the low-income households in that service  
5 area. Within 5 years after the date a certificateholder begins  
6 providing video service in a service area, the  
7 certificateholder shall provide access to its video services  
8 to at least 50 percent of the low-income households in that  
9 service area.

10 (4) Except for satellite service, a video service  
11 provider may satisfy the requirements of this section through  
12 the use of alternative technology that offers service,  
13 functionality, and content, that is demonstrably similar to  
14 that provided through the provider's video service system. and  
15 that may include a technology that does not require the use of  
16 any public right-of-way. The technology used to comply with  
17 this section shall include carrying public, education, and  
18 government channels and other provisions required under this  
19 act.

20 (5) A video service provider may apply to the  
21 department for a waiver or extension of time to comply with  
22 this section if any of the following apply:

23 (a) Access to public and private rights-of-way cannot  
24 be obtained under reasonable terms and conditions.

25 (b) Developments or buildings are not subject to  
26 competition because of existing exclusive service agreements.

27 (c) Developments or buildings are inaccessible using  
28 reasonable technical solutions under commercially reasonable  
29 terms and conditions.

30  
31

1        (d) Customers reside in an area having a density of  
2 fewer than 25 homes per mile from the nearest activated  
3 distribution plant of the provider.

4        (e) Natural disasters.

5        (f) Other factors beyond the control of the provider.

6        (6) The department may grant a waiver or extension  
7 only if the provider has made substantial and continuous  
8 effort to meet the requirements of this section. If an  
9 extension is granted, the department shall establish a new  
10 compliance deadline. If a waiver is granted, the department  
11 shall specify the requirements waived.

12        (7) As used in this section, the term "low-income  
13 household" means a household having an average annual  
14 household income of less than \$35,000 as determined by the  
15 most recent decennial census.

16        (8) Notwithstanding any other provision of this act, a  
17 video service provider is not required to comply with, and the  
18 department may not impose or enforce, any mandatory build-out  
19 or deployment provisions or schedules, except those required  
20 to comply with this section.

21        (9) The department or a court of competent  
22 jurisdiction may take any action necessary to enforce this  
23 section. An affected resident or applicable local government  
24 on behalf of its residents may seek any available legal remedy  
25 to address an alleged violation of this section.

26        (10) The Department of Agriculture and Consumer  
27 Services shall adopt rules pursuant to ss. 120.536(1) and  
28 120.54 to administer this section.

29        610.115 Compliance.--If a certificateholder is found  
30 by a court of competent jurisdiction not to be in compliance  
31 with the requirements of this chapter, the certificateholder

1 shall have a reasonable period of time, as specified by the  
2 court, to cure such noncompliance.

3 610.116 Limitation.--Nothing in this chapter shall be  
4 construed to give any local government or the department any  
5 authority over any communications service other than cable or  
6 video services whether offered on a common carrier or private  
7 contract basis.

8 610.117 Cable or video services for public  
9 facilities.--Upon request by a municipality or county, a  
10 certificateholder shall provide, within 90 days after receipt  
11 of the request, at no charge Internet access or cable or video  
12 service to public facilities, including, but not limited to,  
13 K-12 schools, community colleges, public libraries, public  
14 hospitals, public health clinics, or government buildings, to  
15 the extent such buildings are located within 500 feet of the  
16 certificateholder's activated video distribution plant. At the  
17 request of the municipality or county, the certificateholder  
18 shall extend its distribution plant to serve such buildings  
19 located more than 500 feet from the certificateholder's  
20 distribution plant. In such circumstances, the government  
21 entity owning or occupying the building is responsible for the  
22 time and material costs incurred in extending the distribution  
23 plant to within 500 feet adjacent to the building. The cable  
24 or video service provided pursuant to this section shall  
25 include, at a minimum, the basic service tier and programming  
26 service tier as well as any equipment required to provide  
27 those service tiers.

28 610.118 Reports to the Legislature.--

29 (1) The Office of Program Policy Analysis and  
30 Government Accountability shall submit to the President of the  
31 Senate, the Speaker of the House of Representatives, and the

1 majority and minority leaders of the Senate and House of  
2 Representatives, by December 1, 2009, and December 1, 2014, a  
3 report on the status of competition in the cable and video  
4 service industry, including, by each municipality and county,  
5 the number of cable and video service providers, the number of  
6 cable and video subscribers served, the number of areas served  
7 by fewer than two cable or video service providers, the trend  
8 in cable and video service prices, and the identification of  
9 any patterns of service as they impact demographic and income  
10 groups.

11 (2) By January 15, 2008, the Department of Agriculture  
12 and Consumer Services shall make recommendations to the  
13 President of the Senate, the Speaker of the House of  
14 Representatives, and the majority and minority leaders of the  
15 Senate and House of Representatives regarding the workload and  
16 staffing requirements associated with consumer complaints  
17 related to video and cable certificateholders. The Department  
18 of State shall provide to the Department of Agriculture and  
19 Consumer Services, for inclusion in the report, the workload  
20 requirements for processing the certificates of franchise  
21 authority. In addition, the Department of State shall provide  
22 the number of applications filed for cable and video  
23 certificates of franchise authority and the number of  
24 amendments received to original applications for franchise  
25 certificate authority.

26 610.119 Severability.--If any provision of ss.  
27 610.102-610.117 or the application thereof to any person or  
28 circumstance is held invalid, such invalidity shall not affect  
29 other provisions or application of ss. 610.102-610.117 that  
30 can be given effect without the invalid provision or

31

1 application, and to this end the provisions of ss.

2 610.102-610.117 are severable.

3           Section 7. Paragraph (a) of subsection (3) of section  
4 350.81, Florida Statutes, is amended to read:

5           350.81 Communications services offered by governmental  
6 entities.--

7           (3)(a) A governmental entity that provides a cable or  
8 video service shall comply with the Cable Communications  
9 Policy Act of 1984, 47 U.S.C. ss. 521 et seq., the regulations  
10 issued by the Federal Communications Commission under the  
11 Cable Communications Policy Act of 1984, 47 U.S.C. ss. 521 et  
12 seq., and all applicable state and federal rules and  
13 regulations, including, but not limited to, ~~s. 166.046~~ and  
14 those provisions of chapters 202, 212, ~~and~~ 337, and 610 that  
15 ~~which~~ apply to a provider of the services.

16           Section 8. Section 364.0361, Florida Statutes, is  
17 amended to read:

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



1 service. This section does not relieve a provider from any  
2 obligations under ~~s. 166.046~~ or s. 337.401.

3 Section 9. Subsections (6), (7), and (8) of section  
4 364.051, Florida Statutes, are amended to read:

5 364.051 Price regulation.--

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

23 ~~(7) After a local exchange telecommunications company  
24 that has more than 1 million access lines in service has  
25 reduced its intrastate switched network access rates to  
26 parity, as defined in s. 364.164(5), the local exchange  
27 telecommunications company may petition the commission for  
28 regulatory treatment of its retail services at a level no  
29 greater than that imposed by the commission upon competitive  
30 local exchange telecommunications companies. The local  
31 exchange telecommunications company shall:~~

1           ~~(a) Show that granting the petition is in the public~~  
2 ~~interest;~~

3           ~~(b) Demonstrate that the competition faced by the~~  
4 ~~company is sufficient and sustainable to allow such~~  
5 ~~competition to supplant regulation by the commission; and~~

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

9  
10 ~~The commission shall act upon such a petition within 9 months~~  
11 ~~after its filing with the commission. The commission may not~~  
12 ~~increase the level of regulation for competitive local~~  
13 ~~exchange telecommunications companies to a level greater than~~  
14 ~~that which exists on the date the local exchange~~  
15 ~~telecommunications company files its petition.~~

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

22           Section 10. Paragraph (h) of subsection (3) of section  
23 364.10, Florida Statutes, is amended to read:

24           364.10 Undue advantage to person or locality  
25 prohibited; Lifeline service.--

26           (3)

27           (h)1. By December 31, 2007 ~~2003~~, each state agency  
28 that provides benefits to persons eligible for Lifeline  
29 service shall undertake, in cooperation with the Department of  
30 Children and Family Services, the Department of Education, the  
31 commission, the Office of Public Counsel, and

1 telecommunications companies providing Lifeline services, the  
2 development of procedures to promote Lifeline participation.

3 2. If any state agency determines that a person is  
4 eligible for Lifeline services, the agency shall immediately  
5 forward the information to the commission to ensure that the  
6 person is automatically enrolled in the program with the  
7 appropriate eligible telecommunications carrier. The state  
8 agency shall include an option for an eligible customer to  
9 choose not to subscribe to the Lifeline service. The Public  
10 Service Commission and the Department of Children and Family  
11 Services shall, no later than December 31, 2007, adopt rules  
12 creating procedures to automatically enroll eligible customers  
13 in Lifeline service.

14 3. The commission, the Department of Children and  
15 Family Services, and the Office of Public Counsel shall enter  
16 into a memorandum of understanding establishing the respective  
17 duties of the commission, the department, and the public  
18 counsel with respect to the automatic enrollment procedures no  
19 later than December 31, 2007.

20 Section 11. Section 364.163, Florida Statutes, is  
21 amended to read:

22 364.163 Network access services.--For purposes of this  
23 section, the term "network access service" is defined as any  
24 service provided by a local exchange telecommunications  
25 company to a telecommunications company certificated under  
26 this chapter or licensed by the Federal Communications  
27 Commission to access the local exchange telecommunications  
28 network, excluding the local interconnection arrangements in  
29 s. 364.16 and the resale arrangements in s. 364.161. Each  
30 local exchange telecommunications company subject to s.  
31 364.051 shall maintain tariffs with the commission containing

1 the terms, conditions, and rates for each of its network  
2 access services. The switched network access service rates in  
3 effect immediately prior to July 1, 2007, shall be, and shall  
4 remain, capped at that level until July 1, 2010. An  
5 interexchange telecommunications company may not institute any  
6 intrastate connection fee or any similarly named fee.

7 ~~(1) After a local exchange telecommunications~~  
8 ~~company's intrastate switched network access rates are reduced~~  
9 ~~to or below parity, as defined in s. 364.164(5), the company's~~  
10 ~~intrastate switched network access rates shall be, and shall~~  
11 ~~remain, capped for 3 years.~~

12 ~~(2) Any intrastate interexchange telecommunications~~  
13 ~~company whose intrastate switched network access rate is~~  
14 ~~reduced as a result of the rate adjustments made by a local~~  
15 ~~exchange telecommunications company in accordance with s.~~  
16 ~~364.164 shall decrease its intrastate long distance revenues~~  
17 ~~by the amount necessary to return the benefits of such~~  
18 ~~reduction to both its residential and business customers. The~~  
19 ~~intrastate interexchange telecommunications company may~~  
20 ~~determine the specific intrastate rates to be decreased,~~  
21 ~~provided that residential and business customers benefit from~~  
22 ~~the rate decreases. Any in state connection fee or similarly~~  
23 ~~named fee shall be eliminated by July 1, 2006, provided that~~  
24 ~~the timetable determined pursuant to s. 364.164(1) reduces~~  
25 ~~intrastate switched network access rates in an amount that~~  
26 ~~results in the elimination of such fee in a revenue neutral~~  
27 ~~manner. The tariff changes, if any, made by the intrastate~~  
28 ~~interexchange telecommunications company to carry out the~~  
29 ~~requirements of this subsection shall be presumed valid and~~  
30 ~~shall become effective on 1 day's notice.~~

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

7           Section 12. Subsection (4) is added to section  
8 364.385, Florida Statutes, to read:

9           364.385 Saving clauses.--

10           (4) The rates and charges for basic local  
11 telecommunications service and network access service approved  
12 by the commission in accordance with the decisions set forth  
13 in Orders Nos. PSC 03-1469-FOF-TL and PSC 04-0456-FOF-TL, and  
14 which are in effect immediately prior to July 1, 2007, shall  
15 remain in effect and such rates and charges may not be changed  
16 after the effective date of this act, except in accordance  
17 with the provisions of ss. 364.051 and 364.163.

18           Section 13. Sections 166.046 and 364.164, Florida  
19 Statutes, are repealed.

20           Section 14. This act shall take effect upon becoming a  
21 law.

22  
23           STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
24           COMMITTEE SUBSTITUTE FOR  
25           CS/SB 998

26           The committee substitute for committee substitute (CS) makes a  
27 number of changes to the provisions relating to the use of  
28 public right-of-way by providers of communications services;  
29 use of and support for public, governmental, and educational  
30 access channels (PEG); provision of cable and internet  
31 service, at no charge, to certain education and government  
facilities; customer service standards; and, continuation of  
incumbent franchise agreements. The CS also requires an  
applicant for a state-issued certificate of franchise to have  
a system capable of an emergency override.