

1                   A bill to be entitled  
2           An act relating to telecommunications companies; creating  
3           the "Consumer Choice and Protection Act"; amending s.  
4           364.01, F.S.; providing that it is the intent of the  
5           Legislature that the Public Service Commission not  
6           regulate Internet protocol-enabled service, including  
7           voice-over-Internet service; amending s. 364.02, F.S.;  
8           redefining the terms "basic local telecommunications  
9           service," "nonbasic service," and "telecommunications  
10          company" and defining the term "Internet protocol-enabled  
11          service"; amending ss. 364.011 and 364.013, F.S.;  
12          exempting Internet protocol-enabled services from the  
13          regulatory jurisdiction of the Public Service Commission;  
14          amending s. 364.04, F.S.; requiring each  
15          telecommunications company to publish through electronic  
16          or physical media the company's schedules showing its  
17          rates, tolls, rentals, contracts, and charges; authorizing  
18          a telecommunications company to file the published  
19          schedules with the Public Service Commission or to publish  
20          the schedules through other reasonably publicly accessible  
21          means, including on a website; deleting standards for  
22          printing schedules and notices; amending s. 364.051, F.S.;  
23          removing a limitation on eligibility to request an  
24          increase in basic rates due to storm damage; deleting  
25          provisions relating to rate increases for nonbasic  
26          services; authorizing a telecommunications company to  
27          change the price of a nonbasic service with 1 day's  
28          notice; amending s. 364.08, F.S.; prohibiting a

29 | telecommunications company from charging or receiving  
30 | compensation for any service other than for the charge  
31 | applicable to the service as specified in its schedule on  
32 | file or otherwise published; providing an exception for  
33 | employee concessions; amending s. 364.10, F.S.; providing  
34 | the conditions that require a telecommunications carrier  
35 | to provide Lifeline services to eligible customers;  
36 | amending s. 364.15, F.S.; requiring that the Public  
37 | Service Commission order only those repairs and  
38 | improvements to telecommunications facilities which are  
39 | authorized under law; amending s. 364.33, F.S.; providing  
40 | that a certificate of necessity may be transferred from a  
41 | person holding a certificate to another, and a person  
42 | holding a certificate may acquire ownership or control of  
43 | a telecommunications facility without prior approval of  
44 | the commission; amending ss. 364.335 and 364.345, F.S.;  
45 | conforming provisions to changes made in the act; amending  
46 | s. 364.3376, F.S.; requiring providers of telephone  
47 | operator services to comply with certain enumerated  
48 | criteria; requiring the operator services to bill for  
49 | services in accordance with published schedules; amending  
50 | s. 364.3382, F.S.; requiring each local exchange  
51 | telecommunications company to advise each residential  
52 | customer of the least-cost service available to that  
53 | customer when the residential customer initially requests  
54 | basic local telecommunications service; repealing s.  
55 | 364.09, F.S., relating to the illegal giving of rebates or  
56 | special rates by a telecommunications company; amending

57 ss. 196.012, 199.183, 212.08, 290.007, 350.0605, 364.059,  
 58 364.105, 364.602, and 489.103, F.S.; conforming cross-  
 59 references; providing an effective date.

60

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

62

63 Section 1. This act may be cited as the "Consumer Choice  
 64 and Protection Act."

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

67 364.01 Powers of commission, legislative intent.--

68 (3) Communications activities that are not regulated by  
 69 the Florida Public Service Commission, including, but not  
 70 limited to, Internet protocol-enabled service such as VoIP,  
 71 wireless, and broadband, are subject to this state's generally  
 72 applicable business regulation and deceptive trade practices and  
 73 consumer protection laws, as enforced by the appropriate state  
 74 authority or through actions in the judicial system. This  
 75 chapter does not limit the availability to any party of any  
 76 remedy or defense under state or federal antitrust laws. The  
 77 Legislature finds that the competitive provision of  
 78 telecommunications services, including local exchange  
 79 telecommunications service, is in the public interest and will  
 80 provide customers with freedom of choice, encourage the  
 81 introduction of new telecommunications service, encourage  
 82 technological innovation, and encourage investment in  
 83 telecommunications infrastructure. The Legislature further finds  
 84 that the transition from the monopoly provision of local

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85 exchange service to the competitive provision thereof will  
86 require appropriate regulatory oversight to protect consumers  
87 and provide for the development of fair and effective  
88 competition, but nothing in this chapter shall limit the  
89 availability to any party of any remedy under state or federal  
90 antitrust laws. The Legislature further finds that changes in  
91 regulations allowing increased competition in telecommunications  
92 services could provide the occasion for increases in the  
93 telecommunications workforce; therefore, it is in the public  
94 interest that competition in telecommunications services lead to  
95 a situation that enhances the high-technological skills and the  
96 economic status of the telecommunications workforce. The  
97 Legislature further finds that the provision of Internet  
98 protocol-enabled service, including voice-over-Internet protocol  
99 (VoIP) free of unnecessary regulation, regardless of the  
100 provider, is in the public interest.

101 Section 3. Section 364.02, Florida Statutes, is amended to  
102 read:

103 364.02 Definitions.--As used in this chapter, the term:

104 (1) "Basic local telecommunications service" means voice-  
105 grade, single-line, flat-rate residential, and ~~flat-rate single-~~  
106 ~~line business~~ local exchange service that provides services  
107 ~~which provide~~ dial tone, local usage necessary to place  
108 unlimited calls within a local exchange area, dual tone  
109 multifrequency dialing, and access to the following: emergency  
110 services such as "911," all locally available interexchange  
111 companies, directory assistance, operator services, relay  
112 services, and an alphabetical directory listing. For a local

113 exchange telecommunications company, the term includes ~~shall~~  
 114 ~~include~~ any extended area service routes, and extended calling  
 115 service in existence or ordered by the commission on or before  
 116 July 1, 1995.

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

- 121 (a) Is used to provide access to the Internet; or
- 122 (b) Provides computer processing, information storage,  
 123 information content, or protocol conversion in combination with  
 124 the service.

125  
 126 The definition of broadband service does not include any  
 127 intrastate telecommunications services that have been tariffed  
 128 with the commission on or before January 1, 2005.

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

132 (4) "Commission" means the Florida Public Service  
 133 Commission.

134 (5) "Competitive local exchange telecommunications  
 135 company" means any company certificated by the commission to  
 136 provide local exchange telecommunications services in this state  
 137 on or after July 1, 1995.

138 (6) "Corporation" includes a corporation, company,  
 139 association, or joint stock association.

140 (7) "Internet protocol-enabled service" means a service,

141 capability, functionality, or application that is provided using  
142 Internet protocol or a successor protocol to enable an end user  
143 to send or receive data, video, or voice communications in  
144 Internet protocol format or a successor format.

145 ~~(8)(7)~~ "Intrastate interexchange telecommunications  
146 company" means any entity that provides intrastate interexchange  
147 telecommunications services.

148 ~~(9)(8)~~ "Local exchange telecommunications company" means  
149 any company certificated by the commission to provide local  
150 exchange telecommunications service in this state on or before  
151 June 30, 1995.

152 ~~(10)(9)~~ "Monopoly service" means a telecommunications  
153 service for which there is no effective competition, either in  
154 fact or by operation of law.

155 ~~(11)(10)~~ "Nonbasic service" means any telecommunications  
156 service provided by a local exchange telecommunications company  
157 other than a basic local telecommunications service, a local  
158 interconnection arrangement described in s. 364.16, or a network  
159 access service described in s. 364.163. Any combination of basic  
160 service along with a nonbasic service or an unregulated service  
161 is nonbasic service.

162 ~~(12)(11)~~ "Operator service" includes, but is not limited  
163 to, billing or completion of third-party, person-to-person,  
164 collect, or calling card or credit card calls through the use of  
165 a live operator or automated equipment.

166 ~~(13)(12)~~ "Operator service provider" means a person who  
167 furnishes operator service through a call aggregator.

168 ~~(14)(13)~~ "Service" is to be construed in its broadest and

169 most inclusive sense. The term "service" does not include  
 170 broadband service or Internet protocol-enabled service,  
 171 including voice-over-Internet protocol service for purposes of  
 172 regulation by the commission. Nothing herein shall affect the  
 173 rights and obligations of any entity related to the payment of  
 174 switched network access rates or other intercarrier  
 175 compensation, if any, related to Internet protocol-enabled  
 176 service, including voice-over-Internet protocol service.

177 Notwithstanding s. 364.013, and the exemption of services  
 178 pursuant to this subsection, the commission may arbitrate,  
 179 enforce, or approve interconnection agreements, and resolve  
 180 disputes as provided by 47 U.S.C. ss. 251 and 252, or any other  
 181 applicable federal law or regulation. With respect to the  
 182 services exempted in this subsection, regardless of the  
 183 technology, the duties of a local exchange telecommunications  
 184 company are only those that the company is obligated to extend  
 185 or provide under applicable federal law and regulations.

186 (15)~~(14)~~ "Telecommunications company" includes every  
 187 corporation, partnership, and person and their lessees,  
 188 trustees, or receivers appointed by any court whatsoever, and  
 189 every political subdivision in the state, offering two-way  
 190 telecommunications service to the public for hire within this  
 191 state by the use of a telecommunications facility. The term  
 192 "telecommunications company" does not include:

193 (a) An entity that ~~which~~ provides a telecommunications  
 194 facility exclusively to a certificated telecommunications  
 195 company;

196 (b) An entity that ~~which~~ provides a telecommunications

197 facility exclusively to a company which is excluded from the  
 198 definition of a telecommunications company under this  
 199 subsection;

200 (c) A commercial mobile radio service provider;

201 (d) A facsimile transmission service;

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

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

206 (g) An intrastate interexchange telecommunications  
 207 company.

208  
 209 However, each commercial mobile radio service provider and each  
 210 intrastate interexchange telecommunications company shall  
 211 continue to be liable for any taxes imposed under chapters 202,  
 212 203, and 212 and any fees assessed under s. 364.025. Each  
 213 intrastate interexchange telecommunications company shall  
 214 continue to be subject to ss. 364.04, 364.10(3)(a) and (c)~~(d)~~,  
 215 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall  
 216 provide the commission with the current information as the  
 217 commission deems necessary to contact and communicate with the  
 218 company, and shall continue to pay intrastate switched network  
 219 access rates or other intercarrier compensation to the local  
 220 exchange telecommunications company or the competitive local  
 221 exchange telecommunications company for the origination and  
 222 termination of interexchange telecommunications service, ~~and~~  
 223 ~~shall reduce its intrastate long distance toll rates in~~  
 224 ~~accordance with former s. 364.163(2).~~

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225        ~~(16)-(15)~~ "Telecommunications facility" includes real  
226 estate, easements, apparatus, property, and routes used and  
227 operated to provide two-way telecommunications service to the  
228 public for hire within this state.

229        ~~(17)-(16)~~ "VoIP" means the voice-over-Internet protocol as  
230 that term is defined in federal law.

231        Section 4. Section 364.011, Florida Statutes, is amended  
232 to read:

233        364.011 Exemptions from commission jurisdiction.--The  
234 following services are exempt from oversight by the commission,  
235 except to the extent delineated in this chapter ~~or specifically~~  
236 ~~authorized by federal law~~:

237            (1) Intrastate interexchange telecommunications services.

238            (2) Broadband services, regardless of the provider,  
239 platform, or protocol.

240            (3) Internet protocol-enabled services, including VoIP.

241            (4) Wireless telecommunications, including commercial  
242 mobile radio service providers.

243        Section 5. Section 364.013, Florida Statutes, is amended  
244 to read:

245        364.013 Emerging and advanced services.--Broadband service  
246 and the provision of Internet protocol-enabled services,  
247 including voice-over-Internet-protocol (VoIP), are exempt from  
248 commission jurisdiction and shall be free of state regulation,  
249 except as delineated in this chapter ~~or as specifically~~  
250 ~~authorized by federal law~~, regardless of the provider, platform,  
251 or protocol.

252        Section 6. Section 364.04, Florida Statutes, is amended to

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253 read:

254 364.04 Schedules of rates, tolls, rentals, contracts, and  
255 charges; filing; public inspection.--

256 ~~(1) Upon order of the commission,~~ Every telecommunications  
257 company shall publish through electronic or physical media file  
258 ~~with the commission, and shall print and keep open to public~~  
259 ~~inspection,~~ schedules showing the rates, tolls, rentals,  
260 contracts, and charges of that company for service to be  
261 performed within the state. A telecommunications company may, as  
262 an option, file the published schedules with the commission or  
263 publish its schedules through other reasonably publicly  
264 accessible means, including on a website. A telecommunications  
265 company that does not file its schedule with the commission  
266 shall inform its customers where a customer may view the  
267 telecommunications company's schedules.

268 (2) The schedule, ~~as printed and open to public~~  
269 ~~inspection,~~ shall plainly state the places ~~between which~~  
270 telecommunications service will be rendered and shall also state  
271 separately all charges and all privileges or facilities granted  
272 or allowed and any rules or regulations or forms of contract  
273 which may in anywise change, affect, or determine any of the  
274 aggregate of the rates, tolls, rentals, or charges for the  
275 service rendered.

276 ~~(3) A schedule shall be plainly printed in large type, and~~  
277 ~~a copy thereof shall be kept by every telecommunications company~~  
278 ~~readily accessible to, and for convenient inspection by, the~~  
279 ~~public at such places as may be designated by the commission.~~  
280 ~~Any such schedule shall be immediately produced by the~~

281 ~~telecommunications company upon the demand of any person.~~

282 ~~(4) A notice printed in bold type and stating that such~~  
 283 ~~schedules are on file and open to inspection by any person, the~~  
 284 ~~places where the schedules are kept, and that the agent will~~  
 285 ~~assist any person to determine from such schedules any rate,~~  
 286 ~~toll, rental, rule, or regulation which is in force shall be~~  
 287 ~~kept posted by every telecommunications company as the~~  
 288 ~~commission designates.~~

289 Section 7. Paragraph (c) of subsection (1), paragraph (c)  
 290 of subsection (2), paragraph (b) of subsection (4), and  
 291 subsection (5) of section 364.051, Florida Statutes, are amended  
 292 to read:

293 364.051 Price regulation.--

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

298 (c) Each company subject to this section is ~~shall be~~  
 299 exempt from rate base, rate of return regulation and the  
 300 requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055,  
 301 364.14, 364.17, ~~and~~ 364.18, and 364.19.

302 (2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.--Price  
 303 regulation of basic local telecommunications service shall  
 304 consist of the following:

305 (c) There shall be a flat-rate pricing option for basic  
 306 local telecommunications service ~~services~~, and mandatory  
 307 measured service for basic local telecommunications service  
 308 ~~services~~ shall not be imposed.

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309 (4)

310 (b) For purposes of this section, evidence of damage  
311 occurring to the lines, plants, or facilities of a local  
312 exchange telecommunications company ~~that is subject to the~~  
313 ~~carrier-of-last-resort obligations~~, which damage is the result  
314 of a tropical system occurring after June 1, 2005, and named by  
315 the National Hurricane Center, constitutes a compelling showing  
316 of changed circumstances.

317 1. A company may file a petition to recover its intrastate  
318 costs and expenses relating to repairing, restoring, or  
319 replacing the lines, plants, or facilities damaged by a named  
320 tropical system.

321 2. The commission shall verify the intrastate costs and  
322 expenses submitted by the company in support of its petition.

323 3. The company must show and the commission shall  
324 determine whether the intrastate costs and expenses are  
325 reasonable under the circumstances for the named tropical  
326 system.

327 4. A company having a storm-reserve fund may recover  
328 tropical-system-related costs and expenses from its customers  
329 only in excess of any amount available in the storm-reserve  
330 fund.

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

335 6. The commission may order the company to add an equal  
336 line-item charge per access line to the billing statement of the

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337 company's retail basic local telecommunications service  
338 customers, its retail nonbasic telecommunications service  
339 customers, and, to the extent the commission determines  
340 appropriate, its wholesale loop unbundled network element  
341 customers. At the end of the collection period, the commission  
342 shall verify that the collected amount does not exceed the  
343 amount authorized by the order. If collections exceed the  
344 ordered amount, the commission shall order the company to refund  
345 the excess.

346 7. In order to qualify for filing a petition under this  
347 paragraph, a company with 1 million or more access lines, but  
348 fewer than 3 million access lines, must have tropical-system-  
349 related costs and expenses exceeding \$1.5 million, and a company  
350 with 3 million or more access lines must have tropical-system-  
351 related costs and expenses of \$5 million or more. A company with  
352 fewer than 1 million access lines is not required to meet a  
353 minimum damage threshold in order to qualify to file a petition  
354 under this paragraph.

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

359  
360 ~~This paragraph is not intended to adversely affect the~~  
361 ~~commission's consideration of any petition for an increase in~~  
362 ~~basic rates to recover costs related to storm damage which was~~  
363 ~~filed before the effective date of this act.~~

364 (5) NONBASIC SERVICES.--Price regulation of nonbasic

365 services shall consist of the following:

366 (a) Each company subject to this section ~~shall, at its~~  
 367 ~~option, maintain tariffs with the commission or otherwise~~  
 368 ~~publicly publish the terms, conditions, and rates for each of~~  
 369 ~~its nonbasic services, and may set or change, on 1 day's notice,~~  
 370 the rate for each of its nonbasic services. ~~For a company~~  
 371 ~~electing to publicly publish the terms, conditions, and rates~~  
 372 ~~for each of its nonbasic services, the commission may establish~~  
 373 ~~guidelines for the publication. The guidelines may not require~~  
 374 ~~more information than what is required to be filed with a~~  
 375 ~~tariff.~~ The price increase for any nonbasic service category  
 376 shall not exceed 6 percent within a 12-month period until there  
 377 is another provider providing local telecommunications service  
 378 in an exchange area at which time the price for any nonbasic  
 379 service category may be increased in an amount not to exceed 20  
 380 percent within a 12-month period, and the rate shall be  
 381 presumptively valid. However, ~~for purposes of this subsection,~~  
 382 ~~the prices of:~~

383 1. ~~A voice-grade, flat-rate, multi-line business local~~  
 384 ~~exchange service, including multiple individual lines, centrex~~  
 385 ~~lines, private branch exchange trunks, and any associated~~  
 386 ~~huntling services, that provides dial tone and local usage~~  
 387 ~~necessary to place a call within a local exchange calling area;~~  
 388 and

389 2. ~~Telecommunications services provided under contract~~  
 390 ~~service arrangements to the SUNCOM Network, as defined in~~  
 391 ~~chapter 282,~~

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393 ~~shall be capped at the rates in effect on July 1, 1995, and such~~  
394 ~~rates shall not be increased prior to January 1, 2000; provided,~~  
395 ~~however, that a petition to increase such rates may be filed~~  
396 ~~pursuant to subsection (4) utilizing the standards set forth~~  
397 ~~therein. There shall be a flat-rate pricing option for multi-~~  
398 ~~line business local exchange service, and mandatory measured~~  
399 ~~service for multi-line business local exchange service shall not~~  
400 ~~be imposed. Nothing contained in This chapter does not section~~  
401 ~~shall~~ prevent the local exchange telecommunications company from  
402 meeting offerings by any competitive provider of the same, or  
403 functionally equivalent, nonbasic services in a specific  
404 geographic market or to a specific customer by deaveraging the  
405 price of any nonbasic service, packaging nonbasic services  
406 together or with basic services, using volume discounts and term  
407 discounts, and offering individual contracts. However, the local  
408 exchange telecommunications company may ~~shall~~ not engage in any  
409 anticompetitive act or practice or, ~~nor~~ unreasonably  
410 discriminate among similarly situated customers.

411 (b) The commission has ~~shall have~~ continuing regulatory  
412 oversight of nonbasic services for purposes of ~~ensuring~~  
413 ~~resolution of service complaints,~~ preventing cross-subsidization  
414 of nonbasic services with revenues from basic services, and  
415 ensuring that all providers are treated fairly in the  
416 telecommunications market. The cost standard for determining  
417 cross-subsidization is whether the total revenue from a nonbasic  
418 service is less than the total long-run incremental cost of the  
419 service. Total long-run incremental cost means service-specific  
420 volume and nonvolume-sensitive costs.

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421       ~~(c) The price charged to a consumer for a nonbasic service~~  
422 ~~shall cover the direct costs of providing the service and shall,~~  
423 ~~to the extent a cost is not included in the direct cost, include~~  
424 ~~as an imputed cost the price charged by the company to~~  
425 ~~competitors for any monopoly component used by a competitor in~~  
426 ~~the provision of its same or functionally equivalent service.~~

427       Section 8. Section 364.08, Florida Statutes, is amended to  
428 read:

429       364.08 Unlawful to charge other than schedule rates or  
430 charges; free service and reduced rates prohibited.--

431       (1) A telecommunications company may not charge, demand,  
432 collect, or receive for any service rendered or to be rendered  
433 any compensation other than the charge applicable to such  
434 service as specified in its schedule on file or otherwise  
435 published and in effect at that time. A telecommunications  
436 company may not ~~refund or remit, directly or indirectly, any~~  
437 ~~portion of the rate or charge so specified or extend to any~~  
438 person any advantage of contract or agreement or the benefit of  
439 any rule or regulation or any privilege or facility not  
440 regularly and uniformly extended to all persons under like  
441 circumstances for like or substantially similar service.

442       (2) A telecommunications company subject to this chapter  
443 may provide not, directly or indirectly, give any free or  
444 ~~reduced service between points within this state. However, it~~  
445 ~~shall be lawful for the commission to authorize employee~~  
446 concessions without approval by the commission if in the public  
447 interest.

448       Section 9. Subsection (3) of section 364.10, Florida

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449 Statutes, is amended to read:

450 364.10 Undue advantage to person or locality prohibited;  
451 Lifeline service.--

452 (3) (a) Each ~~Effective September 1, 2003,~~ any local  
453 exchange telecommunications company that has more than 1 million  
454 access lines and that is designated as an eligible  
455 telecommunications carrier ~~authorized by the commission to~~  
456 ~~reduce its switched network access rate pursuant to s. 364.164~~  
457 ~~shall have tariffed and~~ shall provide Lifeline service to any  
458 otherwise eligible customer or potential customer who meets an  
459 income eligibility test at 135 percent or less of the federal  
460 poverty income guidelines for Lifeline customers. Such a test  
461 for eligibility must augment, rather than replace, the  
462 eligibility standards established by federal law and based on  
463 participation in certain low-income assistance programs. Each  
464 intrastate interexchange telecommunications company shall,  
465 ~~effective September 1, 2003,~~ file or publish a schedule tariff  
466 providing at a minimum the intrastate interexchange  
467 telecommunications carrier's current Lifeline benefits and  
468 exemptions to Lifeline customers who meet the income eligibility  
469 test set forth in this subsection. The Office of Public Counsel  
470 shall certify and maintain claims submitted by a customer for  
471 eligibility under the income test authorized by this subsection.

472 (b) Each eligible telecommunications carrier subject to  
473 this subsection shall provide to each state and federal agency  
474 providing benefits to persons eligible for Lifeline service  
475 applications, brochures, pamphlets, or other materials that  
476 inform the persons of their eligibility for Lifeline, and each

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477 state agency providing the benefits shall furnish the materials  
478 to affected persons at the time they apply for benefits.

479 ~~(c) Any local exchange telecommunications company customer~~  
480 ~~receiving Lifeline benefits shall not be subject to any~~  
481 ~~residential basic local telecommunications service rate~~  
482 ~~increases authorized by s. 364.164 until the local exchange~~  
483 ~~telecommunications company reaches parity as defined in s.~~  
484 ~~364.164(5) or until the customer no longer qualifies for the~~  
485 ~~Lifeline benefits established by this section or s. 364.105, or~~  
486 ~~unless otherwise determined by the commission upon petition by a~~  
487 ~~local exchange telecommunications company.~~

488 (c) ~~(d)~~ An eligible telecommunications carrier may not  
489 discontinue basic local exchange telephone service to a  
490 subscriber who receives Lifeline service because of nonpayment  
491 by the subscriber of charges for nonbasic services billed by the  
492 telecommunications company, including long-distance service. A  
493 subscriber who receives Lifeline service shall ~~be required to~~  
494 pay all applicable basic local exchange service fees, including  
495 the subscriber line charge, E-911, telephone relay system  
496 charges, and applicable state and federal taxes.

497 (d) ~~(e)~~ An eligible telecommunications carrier may not  
498 refuse to connect, reconnect, or provide Lifeline service  
499 because of unpaid toll charges or nonbasic charges other than  
500 basic local exchange service.

501 (e) ~~(f)~~ An eligible telecommunications carrier may require  
502 that payment arrangements be made for outstanding debt  
503 associated with basic local exchange service, subscriber line  
504 charges, E-911, telephone relay system charges, and applicable

505 state and federal taxes.

506 (f)~~(g)~~ An eligible telecommunications carrier may block a  
507 Lifeline service subscriber's access to all long-distance  
508 service, except for toll-free numbers, and may block the ability  
509 to accept collect calls when the subscriber owes an outstanding  
510 amount for long-distance service or amounts resulting from  
511 collect calls. However, the eligible telecommunications carrier  
512 may not impose a charge for blocking long-distance service. The  
513 eligible telecommunications carrier shall remove the block at  
514 the request of the subscriber without additional cost to the  
515 subscriber upon payment of the outstanding amount. An eligible  
516 telecommunications carrier may charge a service deposit before  
517 removing the block.

518 (g)~~(h)~~1. By December 31, 2007, each state agency that  
519 provides benefits to persons eligible for Lifeline service shall  
520 undertake, in cooperation with the Department of Children and  
521 Family Services, the Department of Education, the commission,  
522 the Office of Public Counsel, and telecommunications companies  
523 providing Lifeline services, the development of procedures to  
524 promote Lifeline participation.

525 2. If any state agency determines that a person is  
526 eligible for Lifeline services, the agency shall immediately  
527 forward the information to the commission to ensure that the  
528 person is automatically enrolled in the program with the  
529 appropriate eligible telecommunications carrier. The state  
530 agency shall include an option for an eligible customer to  
531 choose not to subscribe to the Lifeline service. The Public  
532 Service Commission and the Department of Children and Family

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533 Services shall, no later than December 31, 2007, adopt rules  
534 creating procedures to automatically enroll eligible customers  
535 in Lifeline service.

536 3. The commission, the Department of Children and Family  
537 Services, and the Office of Public Counsel shall enter into a  
538 memorandum of understanding establishing the respective duties  
539 of the commission, the department, and the public counsel with  
540 respect to the automatic enrollment procedures no later than  
541 December 31, 2007.

542 ~~(h)(i)~~ The commission shall report to the Governor, the  
543 President of the Senate, and the Speaker of the House of  
544 Representatives by December 31 each year on the number of  
545 customers who are subscribing to Lifeline service and the  
546 effectiveness of any procedures to promote participation.

547 ~~(i)(j)~~ The commission shall adopt rules to administer this  
548 section.

549 Section 10. Section 364.15, Florida Statutes, is amended  
550 to read:

551 364.15 Compelling repairs, improvements, changes,  
552 additions, or extensions.--Whenever the commission finds, on its  
553 own motion or upon complaint, that repairs or improvements to,  
554 or changes in, any telecommunications facility ought reasonably  
555 to be made, or that any additions or extensions should  
556 reasonably be made to any telecommunications facility, in order  
557 to promote the security or convenience of the public or  
558 employees or in order to secure adequate service or facilities  
559 for basic local telecommunications services consistent with the  
560 requirements set forth in this chapter, the commission shall

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561 make and serve an order directing that such repairs,  
562 improvements, changes, additions, or extensions be made in the  
563 manner to be specified in the order. This section authorizes the  
564 commission to impose only those requirements that it is  
565 otherwise authorized to impose under this chapter.

566 Section 11. Section 364.33, Florida Statutes, is amended  
567 to read:

568 364.33 Certificate of necessity prerequisite to  
569 construction, operation, or control of telecommunications  
570 facilities.--Except for a transfer of a certificate of necessity  
571 from one person to another as provided in this section, a person  
572 may not begin the construction or operation of any  
573 telecommunications facility, or any extension thereof for the  
574 purpose of providing telecommunications services to the public,  
575 or acquire ownership or control thereof, in whatever manner,  
576 including the acquisition, transfer, or assignment of majority  
577 organizational control or controlling stock ownership, without  
578 prior approval. A certificate of necessity may be transferred  
579 from a person holding a certificate to another person holding a  
580 certificate and a person holding a certificate may acquire  
581 ownership or control of a telecommunications facility through  
582 the acquisition, transfer, or assignment of majority  
583 organizational control or controlling stock ownership of a  
584 person holding a certificate without prior approval of the  
585 commission by giving 60 days' written notice of the transfer or  
586 change of control to the commission and affected customers. This  
587 section does not require approval by the commission prior to the  
588 construction, operation, or extension of a facility by a

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589 | certificated company within its certificated area nor in any way  
590 | limit the commission's ability to review the prudence of such  
591 | construction programs for ratemaking as provided under this  
592 | chapter.

593 |       Section 12. Subsection (4) of section 364.335, Florida  
594 | Statutes, is amended to read:

595 |       364.335 Application for certificate.--

596 |       (4) Except as provided in s. 364.33, revocation,  
597 | suspension, transfer, or amendment of a certificate shall be  
598 | subject to the provisions of this section; except that, when the  
599 | commission initiates the action, the commission shall furnish  
600 | notice to the appropriate local government and to the Public  
601 | Counsel.

602 |       Section 13. Section 364.3376, Florida Statutes, is amended  
603 | to read:

604 |       364.3376 Operator services.--

605 |       (1) (a) A person may not provide operator services as  
606 | defined in s. 364.02 without first obtaining from the commission  
607 | a certificate of public convenience and necessity as an operator  
608 | services provider.

609 |       (b) This section does not apply to operator services  
610 | provided by a local exchange telecommunications company or by an  
611 | intrastate interexchange telecommunications company, except as  
612 | required by the commission in the public interest.

613 |       (2) ~~Notwithstanding any finding by the commission that a~~  
614 | ~~service or facility is subject to competition and should be~~  
615 | ~~regulated pursuant to s. 364.338,~~ All intrastate operator  
616 | service providers are subject to the jurisdiction of the

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617 commission and shall render operator services pursuant to  
618 schedules in accordance with s. 364.04 ~~tariffs approved by the~~  
619 ~~commission.~~

620 ~~(3) For operator services, the commission shall establish~~  
621 ~~maximum rates and charges for all providers of such services~~  
622 ~~within the state.~~

623 (3)~~(4)~~ Operator service providers shall:

624 (a) Require operators to:

625 1. Clearly identify the operator service provider to all  
626 end users before the call is made.

627 2. When requested, provide rate and service information.

628 3. When requested, provide the number to call for  
629 complaints and inquiries.

630 4. When requested, provide the procedure for reporting  
631 service difficulties and methods of obtaining refunds.

632 (b) Not intentionally charge for incompletd calls and  
633 provide full refund or credit for any misbilled or incomplete  
634 calls.

635 (c) Bill for services in accordance with their published  
636 schedules ~~approved in their tariff and only at the rates set~~  
637 forth therein ~~tariff or otherwise approved rate~~, and disclose  
638 their names on bills which include charges for services  
639 rendered.

640 (4)~~(5)~~ Each call aggregator shall post in the immediate  
641 vicinity of each telephone available to the public the name of  
642 the operator service provider, a toll-free customer service  
643 number, a statement that rate quotes are available upon request,  
644 and instructions on how the end user may access other operator

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645 service providers and such other information determined by the  
646 commission to be necessary in the public interest.

647 ~~(5)-(6)~~ Neither the operator service provider nor the call  
648 aggregator shall block or prevent an end user's access to the  
649 end user's operator service provider of choice, except that the  
650 commission shall grant limited waivers to operator service  
651 providers or call aggregators upon a showing that such waiver is  
652 in the public interest.

653 ~~(6)-(7)~~ The local exchange telecommunications company shall  
654 not disconnect local service for properly contested nonpayment  
655 of any operator services bill.

656 ~~(7)-(8)~~ The commission shall adopt and enforce requirements  
657 for the provision of services by operator services companies and  
658 call aggregators.

659 ~~(8)-(9)~~ Operator service providers and local exchange  
660 companies providing billing and collection services shall ~~only~~  
661 bill and collect only the ~~tariffed~~ rates and charges set forth  
662 in the applicable schedules.

663 ~~(9)-(10)~~ ~~Notwithstanding any finding by the commission that~~  
664 ~~a service or facility is subject to competition and should be~~  
665 ~~regulated pursuant to s. 364.338,~~ A local exchange  
666 telecommunications company may ~~shall~~ not perform billing and  
667 collection functions relating to regulated telecommunications  
668 services provided by an operator services provider unless the  
669 operator services provider has filed a statement with the local  
670 exchange telecommunications company signed by a corporate  
671 officer, or by another authorized person having personal  
672 knowledge, that all regulated telecommunications services to be

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673 billed will ~~shall~~ be rendered pursuant to applicable published  
674 schedules ~~tariffs approved by the commission.~~

675 ~~(10)-(11)~~ The commission shall conduct ~~have the~~  
676 ~~responsibility for conducting~~ an effective program of random,  
677 no-notice compliance investigations of the operator services  
678 providers and call aggregators operating within the state. When  
679 the commission finds a blocking violation, it shall determine  
680 whether the blocking is the responsibility of the call  
681 aggregator or the operator services provider and may fine the  
682 responsible party in accordance with s. 364.285. Upon the  
683 failure of the responsible party to correct a violation within a  
684 mandatory time limit established by the commission or upon a  
685 proven pattern of intentional blocking, the commission shall  
686 order the discontinuance of the call aggregator's telephone  
687 service or revoke the operator services provider's certificate,  
688 as applicable.

689 Section 14. Section 364.3382, Florida Statutes, is amended  
690 to read:

691 364.3382 Disclosure.--

692 ~~(1)~~ A local exchange telecommunications company, when a  
693 residential customer initially requests basic local  
694 telecommunications service, shall advise each residential  
695 customer of the least-cost service available to that customer.  
696 ~~Annually, in the form of a bill insert,~~ the local exchange  
697 telecommunications company shall advise each residential  
698 customer of the price of each service option selected by that  
699 customer. The requirement of an annual notice ~~through a bill~~  
700 ~~insert~~ does not apply to interexchange service.

701 ~~(2) Copies of both the written notices and information~~  
 702 ~~provided to customer service representatives concerning the~~  
 703 ~~disclosure required pursuant to subsection (1) shall be~~  
 704 ~~submitted to the commission for prior approval.~~

705 Section 15. Subsection (2) of section 364.345, Florida  
 706 Statutes, is amended to read:

707 364.345 Certificates; territory served; transfer.--

708 (2) Except as provided in s. 364.33, a telecommunications  
 709 company may not sell, assign, or transfer its certificate or any  
 710 portion thereof without:

711 (a) A determination by the commission that the proposed  
 712 sale, assignment, or transfer is in the public interest; and

713 (b) The approval of the commission.

714 Section 16. Section 364.09, Florida Statutes, is repealed.

715 Section 17. Subsection (6) of section 196.012, Florida  
 716 Statutes, is amended to read:

717 196.012 Definitions.--For the purpose of this chapter, the  
 718 following terms are defined as follows, except where the context  
 719 clearly indicates otherwise:

720 (6) Governmental, municipal, or public purpose or function  
 721 shall be deemed to be served or performed when the lessee under  
 722 any leasehold interest created in property of the United States,  
 723 the state or any of its political subdivisions, or any  
 724 municipality, agency, special district, authority, or other  
 725 public body corporate of the state is demonstrated to perform a  
 726 function or serve a governmental purpose which could properly be  
 727 performed or served by an appropriate governmental unit or which  
 728 is demonstrated to perform a function or serve a purpose which

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729 would otherwise be a valid subject for the allocation of public  
730 funds. For purposes of the preceding sentence, an activity  
731 undertaken by a lessee which is permitted under the terms of its  
732 lease of real property designated as an aviation area on an  
733 airport layout plan which has been approved by the Federal  
734 Aviation Administration and which real property is used for the  
735 administration, operation, business offices and activities  
736 related specifically thereto in connection with the conduct of  
737 an aircraft full service fixed base operation which provides  
738 goods and services to the general aviation public in the  
739 promotion of air commerce shall be deemed an activity which  
740 serves a governmental, municipal, or public purpose or function.  
741 Any activity undertaken by a lessee which is permitted under the  
742 terms of its lease of real property designated as a public  
743 airport as defined in s. 332.004(14) by municipalities,  
744 agencies, special districts, authorities, or other public bodies  
745 corporate and public bodies politic of the state, a spaceport as  
746 defined in s. 331.303, or which is located in a deepwater port  
747 identified in s. 403.021(9)(b) and owned by one of the foregoing  
748 governmental units, subject to a leasehold or other possessory  
749 interest of a nongovernmental lessee that is deemed to perform  
750 an aviation, airport, aerospace, maritime, or port purpose or  
751 operation shall be deemed an activity that serves a  
752 governmental, municipal, or public purpose. The use by a lessee,  
753 licensee, or management company of real property or a portion  
754 thereof as a convention center, visitor center, sports facility  
755 with permanent seating, concert hall, arena, stadium, park, or  
756 beach is deemed a use that serves a governmental, municipal, or

757 public purpose or function when access to the property is open  
 758 to the general public with or without a charge for admission. If  
 759 property deeded to a municipality by the United States is  
 760 subject to a requirement that the Federal Government, through a  
 761 schedule established by the Secretary of the Interior, determine  
 762 that the property is being maintained for public historic  
 763 preservation, park, or recreational purposes and if those  
 764 conditions are not met the property will revert back to the  
 765 Federal Government, then such property shall be deemed to serve  
 766 a municipal or public purpose. The term "governmental purpose"  
 767 also includes a direct use of property on federal lands in  
 768 connection with the Federal Government's Space Exploration  
 769 Program or spaceport activities as defined in s. 212.02(22).  
 770 Real property and tangible personal property owned by the  
 771 Federal Government or Space Florida and used for defense and  
 772 space exploration purposes or which is put to a use in support  
 773 thereof shall be deemed to perform an essential national  
 774 governmental purpose and shall be exempt. "Owned by the lessee"  
 775 as used in this chapter does not include personal property,  
 776 buildings, or other real property improvements used for the  
 777 administration, operation, business offices and activities  
 778 related specifically thereto in connection with the conduct of  
 779 an aircraft full service fixed based operation which provides  
 780 goods and services to the general aviation public in the  
 781 promotion of air commerce provided that the real property is  
 782 designated as an aviation area on an airport layout plan  
 783 approved by the Federal Aviation Administration. For purposes of  
 784 determination of "ownership," buildings and other real property

785 improvements which will revert to the airport authority or other  
 786 governmental unit upon expiration of the term of the lease shall  
 787 be deemed "owned" by the governmental unit and not the lessee.  
 788 Providing two-way telecommunications services to the public for  
 789 hire by the use of a telecommunications facility, as defined in  
 790 s. 364.02(16) ~~s. 364.02(15)~~, and for which a certificate is  
 791 required under chapter 364 does not constitute an exempt use for  
 792 purposes of s. 196.199, unless the telecommunications services  
 793 are provided by the operator of a public-use airport, as defined  
 794 in s. 332.004, for the operator's provision of  
 795 telecommunications services for the airport or its tenants,  
 796 concessionaires, or licensees, or unless the telecommunications  
 797 services are provided by a public hospital.

798 Section 18. Paragraph (b) of subsection (1) of section  
 799 199.183, Florida Statutes, is amended to read:

800 199.183 Taxpayers exempt from nonrecurring taxes.--

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

805 (b) Property related to the provision of two-way  
 806 telecommunications services to the public for hire by the use of  
 807 a telecommunications facility, as defined in s. 364.02(16) ~~s.~~  
 808 ~~364.02(15)~~, and for which a certificate is required under  
 809 chapter 364, when the service is provided by any county,  
 810 municipality, or other political subdivision of the state. Any  
 811 immunity of any political subdivision of the state or other  
 812 entity of local government from taxation of the property used to

813 provide telecommunication services that is taxed as a result of  
 814 this paragraph is hereby waived. However, intangible personal  
 815 property related to the provision of telecommunications services  
 816 provided by the operator of a public-use airport, as defined in  
 817 s. 332.004, for the operator's provision of telecommunications  
 818 services for the airport or its tenants, concessionaires, or  
 819 licensees, and intangible personal property related to the  
 820 provision of telecommunications services provided by a public  
 821 hospital, are exempt from taxation under this chapter.

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

824 212.08 Sales, rental, use, consumption, distribution, and  
 825 storage tax; specified exemptions.--The sale at retail, the  
 826 rental, the use, the consumption, the distribution, and the  
 827 storage to be used or consumed in this state of the following  
 828 are hereby specifically exempt from the tax imposed by this  
 829 chapter.

830 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are also  
 831 exempt from the tax imposed by this chapter sales made to the  
 832 United States Government, a state, or any county, municipality,  
 833 or political subdivision of a state when payment is made  
 834 directly to the dealer by the governmental entity. This  
 835 exemption shall not inure to any transaction otherwise taxable  
 836 under this chapter when payment is made by a government employee  
 837 by any means, including, but not limited to, cash, check, or  
 838 credit card when that employee is subsequently reimbursed by the  
 839 governmental entity. This exemption does not include sales of  
 840 tangible personal property made to contractors employed either

841 directly or as agents of any such government or political  
842 subdivision thereof when such tangible personal property goes  
843 into or becomes a part of public works owned by such government  
844 or political subdivision. A determination whether a particular  
845 transaction is properly characterized as an exempt sale to a  
846 government entity or a taxable sale to a contractor shall be  
847 based on the substance of the transaction rather than the form  
848 in which the transaction is cast. The department shall adopt  
849 rules that give special consideration to factors that govern the  
850 status of the tangible personal property before its affixation  
851 to real property. In developing these rules, assumption of the  
852 risk of damage or loss is of paramount consideration in the  
853 determination. This exemption does not include sales, rental,  
854 use, consumption, or storage for use in any political  
855 subdivision or municipality in this state of machines and  
856 equipment and parts and accessories therefor used in the  
857 generation, transmission, or distribution of electrical energy  
858 by systems owned and operated by a political subdivision in this  
859 state for transmission or distribution expansion. Likewise  
860 exempt are charges for services rendered by radio and television  
861 stations, including line charges, talent fees, or license fees  
862 and charges for films, videotapes, and transcriptions used in  
863 producing radio or television broadcasts. The exemption provided  
864 in this subsection does not include sales, rental, use,  
865 consumption, or storage for use in any political subdivision or  
866 municipality in this state of machines and equipment and parts  
867 and accessories therefor used in providing two-way  
868 telecommunications services to the public for hire by the use of

869 a telecommunications facility, as defined in s. 364.02(16) ~~s.~~  
 870 ~~364.02(15)~~, and for which a certificate is required under  
 871 chapter 364, which facility is owned and operated by any county,  
 872 municipality, or other political subdivision of the state. Any  
 873 immunity of any political subdivision of the state or other  
 874 entity of local government from taxation of the property used to  
 875 provide telecommunication services that is taxed as a result of  
 876 this section is hereby waived. However, the exemption provided  
 877 in this subsection includes transactions taxable under this  
 878 chapter which are for use by the operator of a public-use  
 879 airport, as defined in s. 332.004, in providing such  
 880 telecommunications services for the airport or its tenants,  
 881 concessionaires, or licensees, or which are for use by a public  
 882 hospital for the provision of such telecommunications services.

883 Section 20. Subsection (8) of section 290.007, Florida  
 884 Statutes, is amended to read:

885 290.007 State incentives available in enterprise  
 886 zones.--The following incentives are provided by the state to  
 887 encourage the revitalization of enterprise zones:

888 (8) Notwithstanding any law to the contrary, the Public  
 889 Service Commission may allow public utilities and  
 890 telecommunications companies to grant discounts of up to 50  
 891 percent on tariffed rates for services to small businesses  
 892 located in an enterprise zone designated pursuant to s.  
 893 290.0065. Such discounts may be granted for a period not to  
 894 exceed 5 years. For purposes of this subsection, the term  
 895 "public utility" has the same meaning as in s. 366.02(1) and the  
 896 term "telecommunications company" has the same meaning as in s.

897 364.02(15) ~~s. 364.02(14)~~.

898 Section 21. Subsection (3) of section 350.0605, Florida  
899 Statutes, is amended to read:

900 350.0605 Former commissioners and employees;  
901 representation of clients before commission.--

902 (3) For a period of 2 years following termination of  
903 service on the commission, a former member may not accept  
904 employment by or compensation from a business entity which,  
905 directly or indirectly, owns or controls a public utility  
906 regulated by the commission, from a public utility regulated by  
907 the commission, from a business entity which, directly or  
908 indirectly, is an affiliate or subsidiary of a public utility  
909 regulated by the commission or is an actual business competitor  
910 of a local exchange company or public utility regulated by the  
911 commission and is otherwise exempt from regulation by the  
912 commission under ss. 364.02(15) ~~ss. 364.02(14)~~ and 366.02(1), or  
913 from a business entity or trade association that has been a  
914 party to a commission proceeding within the 2 years preceding  
915 the member's termination of service on the commission. This  
916 subsection applies only to members of the Florida Public Service  
917 Commission who are appointed or reappointed after May 10, 1993.

918 Section 22. Paragraph (a) of subsection (1) of section  
919 364.059, Florida Statutes, is amended to read:

920 364.059 Procedures for seeking stay; benchmark;  
921 criteria.--

922 (1) If a local exchange telecommunications company has  
923 elected, pursuant to s. 364.051(6), to have its basic local  
924 telecommunications services treated the same as its nonbasic

925 services, the following procedures shall be available:

926 (a) Any petition filed by a substantially interested party  
 927 against a local exchange telecommunications company seeking a  
 928 stay of the effective date of a price reduction for a basic  
 929 local telecommunications service, alleging an anticompetitive  
 930 price reduction pursuant to s. 364.051(5), s. 364.08, ~~s. 364.09,~~  
 931 s. 364.10, or s. 364.3381, shall be resolved by the commission  
 932 pursuant to this section and by an order issued within 45 days  
 933 after the date the petition is filed.

934 Section 23. Section 364.105, Florida Statutes, is amended  
 935 to read:

936 364.105 Discounted rate for basic service for former  
 937 Lifeline subscribers.--Each local exchange telecommunications  
 938 company shall offer discounted residential basic local  
 939 telecommunications service at 70 percent of the residential  
 940 local telecommunications service rate for any Lifeline  
 941 subscriber who no longer qualifies for Lifeline. A Lifeline  
 942 subscriber who requests such service shall receive the  
 943 discounted price for a period of 1 year after the date the  
 944 subscriber ceases to be qualified for Lifeline. In no event  
 945 shall this preclude the offering of any other discounted  
 946 services which comply with ss. 364.08, ~~364.09,~~ and 364.10.

947 Section 24. Subsection (4) of section 364.602, Florida  
 948 Statutes, is amended to read:

949 364.602 Definitions.--For purposes of this part:

950 (4) "Originating party" means any person, firm,  
 951 corporation, or other entity, including a telecommunications  
 952 company or a billing clearinghouse, that provides any

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953 telecommunications service or information service to a customer  
954 or bills a customer through a billing party, except the term  
955 "originating party" does not include any entity specifically  
956 exempted from the definition of "telecommunications company" as  
957 provided in s. 364.02(15) ~~s. 364.02(14)~~.

958 Section 25. Subsection (5) of section 489.103, Florida  
959 Statutes, is amended to read:

960 489.103 Exemptions.--This part does not apply to:

961 (5) Public utilities, including special gas districts as  
962 defined in chapter 189, telecommunications companies as defined  
963 in s. 364.02(15) ~~s. 364.02(14)~~, and natural gas transmission  
964 companies as defined in s. 368.103(4), on construction,  
965 maintenance, and development work performed by their employees,  
966 which work, including, but not limited to, work on bridges,  
967 roads, streets, highways, or railroads, is incidental to their  
968 business. The board shall define, by rule, the term "incidental  
969 to their business" for purposes of this subsection.

970 Section 26. This act shall take effect July 1, 2009.