

1 A bill to be entitled
2 An act relating to telecommunications companies; creating
3 the "Consumer Choice and Protection Act"; amending s.
4 364.013, F.S.; providing that a competitive local exchange
5 telecommunications company is entitled to interconnection
6 with a local exchange telecommunications company
7 regardless of technology; directing the Public Service
8 Commission to afford such company substantive and
9 procedural rights; amending s. 364.02, F.S.; redefining
10 the terms "basic local telecommunications service,"
11 "nonbasic service," and "telecommunications company";
12 amending s. 364.04, F.S.; requiring each
13 telecommunications company to publish through electronic
14 or physical media the company's schedules showing its
15 rates, tolls, rentals, contracts, and charges; authorizing
16 a telecommunications company to file the published
17 schedules with the commission or to publish the schedules
18 through reasonably publicly accessible means; requiring a
19 company that does not file its schedules with the
20 commission to inform its customers where the schedules are
21 available; deleting requirements for printed schedules and
22 notices; amending s. 364.051, F.S.; revising price
23 regulation provisions; removing a limitation on
24 eligibility to request an increase in basic rates due to
25 storm damage; revising provisions relating to rate
26 increases for nonbasic services; providing that specified
27 provisions do not prevent a local exchange
28 telecommunications company from meeting offerings by

29 | certain competitive providers; revising the purpose of
30 | certain regulatory oversight; revising provisions for
31 | direct costs to be covered by the price charged; amending
32 | s. 364.08, F.S.; prohibiting a telecommunications company
33 | from charging or receiving compensation for any service
34 | other than for the charge applicable to the service as
35 | specified in its schedule on file or otherwise published;
36 | revising a prohibition against extending an advantage to
37 | any person; providing an exception for employee
38 | concessions; repealing s. 364.09, F.S., relating to the
39 | illegal giving of rebates or special rates by a
40 | telecommunications company; amending s. 364.10, F.S.;
41 | revising conditions that require a telecommunications
42 | carrier to provide Lifeline services to eligible
43 | customers; removing a provision for certain rate
44 | increases; amending s. 364.15, F.S.; directing the
45 | commission to order only repairs and improvements to
46 | telecommunications facilities for certain services;
47 | specifying that the commission may impose only those
48 | requirements which are authorized under law; amending s.
49 | 364.33, F.S.; providing that a certificate of necessity
50 | may be transferred from a person holding a certificate to
51 | another, and a person holding a certificate may acquire
52 | ownership or control of a telecommunications facility
53 | without prior approval of the commission; requiring the
54 | person to give certain notice to the commission and
55 | affected customers; amending ss. 364.335 and 364.345,
56 | F.S.; conforming provisions to changes made in the act;

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57 amending s. 364.3376, F.S.; requiring providers of
58 telephone operator services to comply with certain
59 enumerated criteria; requiring such provider to bill for
60 services at the rates set in its published schedules;
61 amending s. 364.3382, F.S.; requiring each local exchange
62 telecommunications company to advise each residential
63 customer of the least-cost service available to that
64 customer when the residential customer initially requests
65 basic local telecommunications service; amending s.
66 364.603, F.S.; providing procedures for resolving
67 complaints regarding preferred carrier freezes on local
68 exchange service; amending ss. 364.059 and 364.105, F.S.;
69 conforming cross-references; providing an effective date.

70
71 Be It Enacted by the Legislature of the State of Florida:

72
73 Section 1. This act may be cited as the "Consumer Choice
74 and Protection Act."

75 Section 2. Section 364.013, Florida Statutes, is amended
76 to read:

77 364.013 Emerging and advanced services.--Broadband service
78 and the provision of voice-over-Internet-protocol (VoIP) shall
79 be free of state regulation, except as delineated in this
80 chapter or as specifically authorized by federal law, regardless
81 of the provider, platform, or protocol. Notwithstanding the
82 exemptions in this chapter, a competitive local exchange
83 telecommunications company is entitled to interconnection with a
84 local exchange telecommunications company to transmit and route

85 voice traffic between both the competitive local exchange
 86 telecommunications company and the local exchange
 87 telecommunications company regardless of the technology by which
 88 the voice traffic is originated by and terminated to an end
 89 user. The commission shall afford such competitive local
 90 exchange telecommunications company all substantive and
 91 procedural rights available to such companies regarding
 92 interconnection under the law.

93 Section 3. Subsections (1), (10), and (14) of section
 94 364.02, Florida Statutes, are amended to read:

95 364.02 Definitions.--As used in this chapter:

96 (1) "Basic local telecommunications service" means voice-
 97 grade, single-line, flat-rate residential, ~~and flat-rate single-~~
 98 ~~line business~~ local exchange service that provides services
 99 ~~which provide~~ dial tone, local usage necessary to place
 100 unlimited calls within a local exchange area, dual tone
 101 multifrequency dialing, and access to the following: emergency
 102 services such as "911," all locally available interexchange
 103 companies, directory assistance, operator services, relay
 104 services, and an alphabetical directory listing. For a local
 105 exchange telecommunications company, the term includes ~~shall~~
 106 ~~include~~ any extended area service routes, and extended calling
 107 service in existence or ordered by the commission on or before
 108 July 1, 1995.

109 (10) "Nonbasic service" means any telecommunications
 110 service provided by a local exchange telecommunications company
 111 other than a basic local telecommunications service, a local
 112 interconnection arrangement described in s. 364.16, or a network

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113 | access service described in s. 364.163. Any combination of basic
114 | service along with a nonbasic service or an unregulated service
115 | is nonbasic service.

116 | (14) "Telecommunications company" includes every
117 | corporation, partnership, and person and their lessees,
118 | trustees, or receivers appointed by any court whatsoever, and
119 | every political subdivision in the state, offering two-way
120 | telecommunications service to the public for hire within this
121 | state by the use of a telecommunications facility. The term
122 | "telecommunications company" does not include:

123 | (a) An entity that ~~which~~ provides a telecommunications
124 | facility exclusively to a certificated telecommunications
125 | company;

126 | (b) An entity that ~~which~~ provides a telecommunications
127 | facility exclusively to a company which is excluded from the
128 | definition of a telecommunications company under this
129 | subsection;

130 | (c) A commercial mobile radio service provider;

131 | (d) A facsimile transmission service;

132 | (e) A private computer data network company not offering
133 | service to the public for hire;

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

136 | (g) An intrastate interexchange telecommunications
137 | company.

138

139 | However, each commercial mobile radio service provider and each
140 | intrastate interexchange telecommunications company shall

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141 continue to be liable for any taxes imposed under chapters 202,
 142 203, and 212 and any fees assessed under s. 364.025. Each
 143 intrastate interexchange telecommunications company shall
 144 continue to be subject to ss. 364.04, 364.10(3)(a) and (c)~~(d)~~,
 145 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall
 146 provide the commission with the current information as the
 147 commission deems necessary to contact and communicate with the
 148 company, and shall continue to pay intrastate switched network
 149 access rates or other intercarrier compensation to the local
 150 exchange telecommunications company or the competitive local
 151 exchange telecommunications company for the origination and
 152 termination of interexchange telecommunications service, ~~and~~
 153 ~~shall reduce its intrastate long distance toll rates in~~
 154 ~~accordance with former s. 364.163(2).~~

155 Section 4. Section 364.04, Florida Statutes, is amended to
 156 read:

157 364.04 Schedules of rates, tolls, rentals, ~~contracts,~~ and
 158 charges; filing; public inspection.--

159 (1) ~~Upon order of the commission,~~ Every telecommunications
 160 company shall publish through electronic or physical media file
 161 ~~with the commission, and shall print and keep open to public~~
 162 ~~inspection,~~ schedules showing the rates, tolls, rentals,
 163 ~~contracts,~~ and charges of that company for service to be
 164 performed within the state. A telecommunications company may, as
 165 an option, file the published schedules with the commission or
 166 publish its schedules through other reasonably publicly
 167 accessible means, including on a website. A telecommunications
 168 company that does not file its schedules with the commission

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169 shall inform its customers where a customer may view the
170 telecommunications company's schedules.

171 (2) The schedules ~~schedule, as printed and open to public~~
172 ~~inspection,~~ shall plainly state the places ~~between which~~
173 telecommunications service will be rendered and shall also state
174 separately all charges and all privileges or facilities granted
175 or allowed and any rules or regulations or forms of contract
176 which may in anywise change, affect, or determine any of the
177 aggregate of the rates, tolls, rentals, or charges for the
178 service rendered.

179 ~~(3) A schedule shall be plainly printed in large type, and~~
180 ~~a copy thereof shall be kept by every telecommunications company~~
181 ~~readily accessible to, and for convenient inspection by, the~~
182 ~~public at such places as may be designated by the commission.~~
183 ~~Any such schedule shall be immediately produced by the~~
184 ~~telecommunications company upon the demand of any person.~~

185 ~~(4) A notice printed in bold type and stating that such~~
186 ~~schedules are on file and open to inspection by any person, the~~
187 ~~places where the schedules are kept, and that the agent will~~
188 ~~assist any person to determine from such schedules any rate,~~
189 ~~toll, rental, rule, or regulation which is in force shall be~~
190 ~~kept posted by every telecommunications company as the~~
191 ~~commission designates.~~

192 Section 5. Paragraph (c) of subsection (1), paragraph (c)
193 of subsection (2), paragraph (b) of subsection (4), and
194 subsection (5) of section 364.051, Florida Statutes, are amended
195 to read:

196 364.051 Price regulation.--

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

201 (c) Each company subject to this section is ~~shall be~~
 202 exempt from rate base, rate of return regulation, and the
 203 requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055,
 204 364.14, 364.17, ~~and~~ 364.18, and 364.19.

205 (2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.--Price
 206 regulation of basic local telecommunications service shall
 207 consist of the following:

208 (c) There shall be a flat-rate pricing option for basic
 209 local telecommunications service ~~services~~, and mandatory
 210 measured service for basic local telecommunications service
 211 ~~services~~ shall not be imposed.

212 (4)

213 (b) For purposes of this section, evidence of damage
 214 occurring to the lines, plants, or facilities of a local
 215 exchange telecommunications company ~~that is subject to the~~
 216 ~~carrier-of-last-resort obligations~~, which damage is the result
 217 of a tropical system occurring after June 1, 2005, and named by
 218 the National Hurricane Center, constitutes a compelling showing
 219 of changed circumstances.

220 1. A company may file a petition to recover its intrastate
 221 costs and expenses relating to repairing, restoring, or
 222 replacing the lines, plants, or facilities damaged by a named
 223 tropical system.

224 2. The commission shall verify the intrastate costs and

225 expenses submitted by the company in support of its petition.

226 3. The company must show and the commission shall
 227 determine whether the intrastate costs and expenses are
 228 reasonable under the circumstances for the named tropical
 229 system.

230 4. A company having a storm-reserve fund may recover
 231 tropical-system-related costs and expenses from its customers
 232 only in excess of any amount available in the storm-reserve
 233 fund.

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

238 6. The commission may order the company to add an equal
 239 line-item charge per access line to the billing statement of the
 240 company's retail basic local telecommunications service
 241 customers, its retail nonbasic telecommunications service
 242 customers, and, to the extent the commission determines
 243 appropriate, its wholesale loop unbundled network element
 244 customers. At the end of the collection period, the commission
 245 shall verify that the collected amount does not exceed the
 246 amount authorized by the order. If collections exceed the
 247 ordered amount, the commission shall order the company to refund
 248 the excess.

249 7. In order to qualify for filing a petition under this
 250 paragraph, a company with 1 million or more access lines, but
 251 fewer than 3 million access lines, must have tropical-system-
 252 related costs and expenses exceeding \$1.5 million, and a company

253 with 3 million or more access lines must have tropical-system-
 254 related costs and expenses of \$5 million or more. A company with
 255 fewer than 1 million access lines is not required to meet a
 256 minimum damage threshold in order to qualify to file a petition
 257 under this paragraph.

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

262
 263 ~~This paragraph is not intended to adversely affect the~~
 264 ~~commission's consideration of any petition for an increase in~~
 265 ~~basic rates to recover costs related to storm damage which was~~
 266 ~~filed before the effective date of this act.~~

267 (5) NONBASIC SERVICES.--Price regulation of nonbasic
 268 services shall consist of the following:

269 (a) Each company subject to this section ~~shall, at its~~
 270 ~~option, maintain tariffs with the commission or otherwise~~
 271 ~~publicly publish the terms, conditions, and rates for each of~~
 272 ~~its nonbasic services, and may set or change, on 1 day's notice,~~
 273 ~~the rate for each of its nonbasic services. For a company~~
 274 ~~electing to publicly publish the terms, conditions, and rates~~
 275 ~~for each of its nonbasic services, the commission may establish~~
 276 ~~guidelines for the publication. The guidelines may not require~~
 277 ~~more information than what is required to be filed with a~~
 278 ~~tariff.~~ The price increase for any nonbasic service category
 279 shall not exceed 6 percent within a 12-month period until there
 280 is another provider providing local telecommunications service

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281 ~~in an exchange area at which time the price for any nonbasic~~
282 ~~service category may be increased in an amount not to exceed 20~~
283 ~~percent within a 12-month period, and the rate shall be~~
284 ~~presumptively valid. However, for purposes of this subsection,~~
285 ~~the prices of:~~

286 1. ~~A voice grade, flat rate, multi-line business local~~
287 ~~exchange service, including multiple individual lines, centrex~~
288 ~~lines, private branch exchange trunks, and any associated~~
289 ~~hunting services, that provides dial tone and local usage~~
290 ~~necessary to place a call within a local exchange calling area,~~
291 ~~and~~

292 2. ~~Telecommunications services provided under contract~~
293 ~~service arrangements to the SUNCOM Network, as defined in~~
294 ~~chapter 282,~~

295
296 ~~shall be capped at the rates in effect on July 1, 1995, and such~~
297 ~~rates shall not be increased prior to January 1, 2000; provided,~~
298 ~~however, that a petition to increase such rates may be filed~~
299 ~~pursuant to subsection (4) utilizing the standards set forth~~
300 ~~therein. There shall be a flat rate pricing option for multi-~~
301 ~~line business local exchange service, and mandatory measured~~
302 ~~service for multi-line business local exchange service shall not~~
303 ~~be imposed. Nothing contained in This chapter does not section~~
304 ~~shall prevent the local exchange telecommunications company from~~
305 ~~meeting offerings by any competitive provider of the same, or~~
306 ~~functionally equivalent, nonbasic services in a specific~~
307 ~~geographic market or to a specific customer by deaveraging the~~
308 ~~price of any nonbasic service, packaging nonbasic services~~

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309 together or with basic services, using volume discounts and term
310 discounts, and offering individual contracts. However, the local
311 exchange telecommunications company may ~~shall~~ not engage in any
312 anticompetitive act or practice or, ~~nor~~ unreasonably
313 discriminate among similarly situated customers.

314 (b) The commission has ~~shall have~~ continuing regulatory
315 oversight of nonbasic services for purposes of ~~ensuring~~
316 ~~resolution of service complaints~~, preventing cross-subsidization
317 of nonbasic services with revenues from basic services, and
318 ensuring that all providers are treated fairly in the
319 telecommunications market. The price charged to a consumer for a
320 nonbasic service shall cover the direct costs of providing the
321 service. The cost standard for determining cross-subsidization
322 is whether the total revenue from a nonbasic service is less
323 than the total long-run incremental cost of the service. Total
324 long-run incremental cost means service-specific volume and
325 nonvolume-sensitive costs.

326 ~~(c) The price charged to a consumer for a nonbasic service~~
327 ~~shall cover the direct costs of providing the service and shall,~~
328 ~~to the extent a cost is not included in the direct cost, include~~
329 ~~as an imputed cost the price charged by the company to~~
330 ~~competitors for any monopoly component used by a competitor in~~
331 ~~the provision of its same or functionally equivalent service.~~

332 Section 6. Section 364.08, Florida Statutes, is amended to
333 read:

334 364.08 Unlawful to charge other than schedule rates or
335 charges; free service and reduced rates prohibited.--

336 (1) A telecommunications company may not charge, demand,

337 collect, or receive for any service rendered or to be rendered
 338 any compensation other than the charge applicable to such
 339 service as specified in its schedule on file or otherwise
 340 published and in effect at that time. A telecommunications
 341 company may not ~~refund or remit, directly or indirectly, any~~
 342 ~~portion of the rate or charge so specified or~~ extend to any
 343 person any advantage of contract or agreement or the benefit of
 344 any rule or regulation or any privilege or facility not
 345 regularly and uniformly extended to all persons under like
 346 circumstances for like or substantially similar service.

347 (2) A telecommunications company subject to this chapter
 348 may provide ~~not, directly or indirectly, give any free or~~
 349 ~~reduced service between points within this state. However, it~~
 350 ~~shall be lawful for the commission to authorize~~ employee
 351 concessions without approval by the commission ~~if in the public~~
 352 ~~interest.~~

353 Section 7. Section 364.09, Florida Statutes, is repealed.

354 Section 8. Subsection (3) of section 364.10, Florida
 355 Statutes, is amended to read:

356 364.10 Undue advantage to person or locality prohibited;
 357 Lifeline service.--

358 (3) (a) Each ~~Effective September 1, 2003, any local~~
 359 exchange telecommunications company that has more than 1 million
 360 access lines and that is designated as an eligible
 361 telecommunications carrier ~~authorized by the commission to~~
 362 ~~reduce its switched network access rate pursuant to s. 364.164~~
 363 ~~shall have tariffed and shall provide Lifeline service to any~~
 364 otherwise eligible customer or potential customer who meets an

365 income eligibility test at 135 percent or less of the federal
366 poverty income guidelines for Lifeline customers. Such a test
367 for eligibility must augment, rather than replace, the
368 eligibility standards established by federal law and based on
369 participation in certain low-income assistance programs. Each
370 intrastate interexchange telecommunications company shall,
371 ~~effective September 1, 2003,~~ file or publish a schedule tariff
372 providing at a minimum the intrastate interexchange
373 telecommunications carrier's current Lifeline benefits and
374 exemptions to Lifeline customers who meet the income eligibility
375 test set forth in this subsection. The Office of Public Counsel
376 shall certify and maintain claims submitted by a customer for
377 eligibility under the income test authorized by this subsection.

378 (b) Each eligible telecommunications carrier subject to
379 this subsection shall provide to each state and federal agency
380 providing benefits to persons eligible for Lifeline service
381 applications, brochures, pamphlets, or other materials that
382 inform the persons of their eligibility for Lifeline, and each
383 state agency providing the benefits shall furnish the materials
384 to affected persons at the time they apply for benefits.

385 ~~(c) Any local exchange telecommunications company customer~~
386 ~~receiving Lifeline benefits shall not be subject to any~~
387 ~~residential basic local telecommunications service rate~~
388 ~~increases authorized by s. 364.164 until the local exchange~~
389 ~~telecommunications company reaches parity as defined in s.~~
390 ~~364.164(5) or until the customer no longer qualifies for the~~
391 ~~Lifeline benefits established by this section or s. 364.105, or~~
392 ~~unless otherwise determined by the commission upon petition by a~~

393 ~~local exchange telecommunications company.~~

394 (c)~~(d)~~ An eligible telecommunications carrier may not
395 discontinue basic local exchange telephone service to a
396 subscriber who receives Lifeline service because of nonpayment
397 by the subscriber of charges for nonbasic services billed by the
398 telecommunications company, including long-distance service. A
399 subscriber who receives Lifeline service shall ~~be required to~~
400 pay all applicable basic local exchange service fees, including
401 the subscriber line charge, E-911, telephone relay system
402 charges, and applicable state and federal taxes.

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

407 (e)~~(f)~~ An eligible telecommunications carrier may require
408 that payment arrangements be made for outstanding debt
409 associated with basic local exchange service, subscriber line
410 charges, E-911, telephone relay system charges, and applicable
411 state and federal taxes.

412 (f)~~(g)~~ An eligible telecommunications carrier may block a
413 Lifeline service subscriber's access to all long-distance
414 service, except for toll-free numbers, and may block the ability
415 to accept collect calls when the subscriber owes an outstanding
416 amount for long-distance service or amounts resulting from
417 collect calls. However, the eligible telecommunications carrier
418 may not impose a charge for blocking long-distance service. The
419 eligible telecommunications carrier shall remove the block at
420 the request of the subscriber without additional cost to the

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421 subscriber upon payment of the outstanding amount. An eligible
422 telecommunications carrier may charge a service deposit before
423 removing the block.

424 (g)~~(h)~~1. By December 31, 2007, each state agency that
425 provides benefits to persons eligible for Lifeline service shall
426 undertake, in cooperation with the Department of Children and
427 Family Services, the Department of Education, the commission,
428 the Office of Public Counsel, and telecommunications companies
429 providing Lifeline services, the development of procedures to
430 promote Lifeline participation.

431 2. If any state agency determines that a person is
432 eligible for Lifeline services, the agency shall immediately
433 forward the information to the commission to ensure that the
434 person is automatically enrolled in the program with the
435 appropriate eligible telecommunications carrier. The state
436 agency shall include an option for an eligible customer to
437 choose not to subscribe to the Lifeline service. The Public
438 Service Commission and the Department of Children and Family
439 Services shall, no later than December 31, 2007, adopt rules
440 creating procedures to automatically enroll eligible customers
441 in Lifeline service.

442 3. The commission, the Department of Children and Family
443 Services, and the Office of Public Counsel shall enter into a
444 memorandum of understanding establishing the respective duties
445 of the commission, the department, and the public counsel with
446 respect to the automatic enrollment procedures no later than
447 December 31, 2007.

448 (h)~~(i)~~ The commission shall report to the Governor, the

449 President of the Senate, and the Speaker of the House of
 450 Representatives by December 31 each year on the number of
 451 customers who are subscribing to Lifeline service and the
 452 effectiveness of any procedures to promote participation.

453 ~~(i)-(j)~~ The commission shall adopt rules to administer this
 454 section.

455 Section 9. Section 364.15, Florida Statutes, is amended to
 456 read:

457 364.15 Compelling repairs, improvements, changes,
 458 additions, or extensions.--Whenever the commission finds, on its
 459 own motion or upon complaint, that repairs or improvements to,
 460 or changes in, any telecommunications facility ought reasonably
 461 to be made, or that any additions or extensions should
 462 reasonably be made to any telecommunications facility, in order
 463 to promote the security or convenience of the public or
 464 employees or in order to secure adequate service or facilities
 465 for basic local telecommunications services consistent with the
 466 requirements set forth in this chapter, the commission shall
 467 make and serve an order directing that such repairs,
 468 improvements, changes, additions, or extensions be made in the
 469 manner to be specified in the order. This section authorizes the
 470 commission to impose only those requirements that it is
 471 otherwise authorized to impose under this chapter.

472 Section 10. Section 364.33, Florida Statutes, is amended
 473 to read:

474 364.33 Certificate of necessity prerequisite to
 475 construction, operation, or control of telecommunications
 476 facilities.--Except for a transfer of a certificate of necessity

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477 from one person to another as provided in this section, a person
478 may not begin the construction or operation of any
479 telecommunications facility, or any extension thereof for the
480 purpose of providing telecommunications services to the public,
481 or acquire ownership or control thereof, in whatever manner,
482 including the acquisition, transfer, or assignment of majority
483 organizational control or controlling stock ownership, without
484 prior approval. A certificate of necessity may be transferred
485 from a person holding a certificate to another person holding a
486 certificate, and a person holding a certificate may acquire
487 ownership or control of a telecommunications facility through
488 the acquisition, transfer, or assignment of majority
489 organizational control or controlling stock ownership of a
490 person holding a certificate without prior approval of the
491 commission by giving 60 days' written notice of the transfer or
492 change of control to the commission and affected customers. This
493 section does not require approval by the commission prior to the
494 construction, operation, or extension of a facility by a
495 certificated company within its certificated area nor in any way
496 limit the commission's ability to review the prudence of such
497 construction programs for ratemaking as provided under this
498 chapter.

499 Section 11. Subsection (4) of section 364.335, Florida
500 Statutes, is amended to read:

501 364.335 Application for certificate.--

502 (4) Except as provided in s. 364.33, revocation,
503 suspension, transfer, or amendment of a certificate shall be
504 subject to the provisions of this section; except that, when the

505 | commission initiates the action, the commission shall furnish
 506 | notice to the appropriate local government and to the Public
 507 | Counsel.

508 | Section 12. Section 364.3376, Florida Statutes, is amended
 509 | to read:

510 | 364.3376 Operator services.--

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

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

519 | (2) ~~Notwithstanding any finding by the commission that a~~
 520 | ~~service or facility is subject to competition and should be~~
 521 | ~~regulated pursuant to s. 364.338, All intrastate operator~~
 522 | ~~service providers are subject to the jurisdiction of the~~
 523 | ~~commission and shall render operator services pursuant to~~
 524 | ~~schedules in accordance with s. 364.04 tariffs approved by the~~
 525 | ~~commission.~~

526 | (3) ~~For operator services, the commission shall establish~~
 527 | ~~maximum rates and charges for all providers of such services~~
 528 | ~~within the state.~~

529 | (3)(4) Operator service providers shall:

530 | (a) Require operators to:

531 | 1. Clearly identify the operator service provider to all
 532 | end users before the call is made.

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

534 3. When requested, provide the number to call for
535 complaints and inquiries.

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

538 (b) Not intentionally charge for incompletd calls and
539 provide full refund or credit for any misbilled or incomplete
540 calls.

541 (c) Bill for services in accordance with their published
542 schedules approved in their tariff and only at the rates set
543 forth therein tariff or otherwise approved rate, and disclose
544 their names on bills which include charges for services
545 rendered.

546 (4)~~(5)~~ Each call aggregator shall post in the immediate
547 vicinity of each telephone available to the public the name of
548 the operator service provider, a toll-free customer service
549 number, a statement that rate quotes are available upon request,
550 and instructions on how the end user may access other operator
551 service providers and such other information determined by the
552 commission to be necessary in the public interest.

553 (5)~~(6)~~ Neither the operator service provider nor the call
554 aggregator shall block or prevent an end user's access to the
555 end user's operator service provider of choice, except that the
556 commission shall grant limited waivers to operator service
557 providers or call aggregators upon a showing that such waiver is
558 in the public interest.

559 (6)~~(7)~~ The local exchange telecommunications company shall
560 not disconnect local service for properly contested nonpayment

561 of any operator services bill.

562 ~~(7)(8)~~ The commission shall adopt and enforce requirements
 563 for the provision of services by operator services companies and
 564 call aggregators.

565 ~~(8)(9)~~ Operator service providers and local exchange
 566 companies providing billing and collection services shall ~~only~~
 567 bill and collect only the ~~tariffed~~ rates and charges set forth
 568 in the applicable schedules.

569 ~~(9)(10)~~ ~~Notwithstanding any finding by the commission that~~
 570 ~~a service or facility is subject to competition and should be~~
 571 ~~regulated pursuant to s. 364.338,~~ A local exchange
 572 telecommunications company may ~~shall~~ not perform billing and
 573 collection functions relating to regulated telecommunications
 574 services provided by an operator services provider unless the
 575 operator services provider has filed a statement with the local
 576 exchange telecommunications company signed by a corporate
 577 officer, or by another authorized person having personal
 578 knowledge, that all regulated telecommunications services to be
 579 billed will ~~shall~~ be rendered pursuant to applicable published
 580 schedules ~~tariffs approved by the commission~~.

581 ~~(10)(11)~~ The commission shall conduct ~~have the~~
 582 ~~responsibility for conducting~~ an effective program of random,
 583 no-notice compliance investigations of the operator services
 584 providers and call aggregators operating within the state. When
 585 the commission finds a blocking violation, it shall determine
 586 whether the blocking is the responsibility of the call
 587 aggregator or the operator services provider and may fine the
 588 responsible party in accordance with s. 364.285. Upon the

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589 failure of the responsible party to correct a violation within a
590 mandatory time limit established by the commission or upon a
591 proven pattern of intentional blocking, the commission shall
592 order the discontinuance of the call aggregator's telephone
593 service or revoke the operator services provider's certificate,
594 as applicable.

595 Section 13. Section 364.3382, Florida Statutes, is amended
596 to read:

597 364.3382 Disclosure.--

598 ~~(1)~~ A local exchange telecommunications company, when a
599 residential customer initially requests basic local
600 telecommunications service, shall advise each residential
601 customer of the least-cost service available to that customer.
602 ~~Annually, in the form of a bill insert,~~ the local exchange
603 telecommunications company shall advise each residential
604 customer of the price of each service option selected by that
605 customer. The requirement of an annual notice ~~through a bill~~
606 ~~insert~~ does not apply to interexchange service.

607 ~~(2) Copies of both the written notices and information~~
608 ~~provided to customer service representatives concerning the~~
609 ~~disclosure required pursuant to subsection (1) shall be~~
610 ~~submitted to the commission for prior approval.~~

611 Section 14. Subsection (2) of section 364.345, Florida
612 Statutes, is amended to read:

613 364.345 Certificates; territory served; transfer.--

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

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

619 (b) The approval of the commission.

620 Section 15. Section 364.603, Florida Statutes, is amended
621 to read:

622 364.603 Methodology for changing telecommunications
623 provider.--The commission shall adopt rules to prevent the
624 unauthorized changing of a subscriber's telecommunications
625 service. Such rules shall be consistent with the
626 Telecommunications Act of 1996, provide for specific
627 verification methodologies, provide for the notification to
628 subscribers of the ability to freeze the subscriber's choice of
629 carriers at no charge, allow for a subscriber's change to be
630 considered valid if verification was performed consistent with
631 the commission's rules, provide for remedies for violations of
632 the rules, and allow for the imposition of other penalties
633 available in this chapter. The commission shall resolve any
634 complaints of anticompetitive behavior concerning a local
635 preferred carrier freeze consistent with s. 364.058 and shall
636 require the telecommunications company asserting the existence
637 of a local preferred carrier freeze that is the subject of the
638 complaint to produce those records required to be maintained
639 pursuant to federal rules on an expedited basis.

640 Section 16. Paragraph (a) of subsection (1) of section
641 364.059, Florida Statutes, is amended to read:

642 364.059 Procedures for seeking stay; benchmark;
643 criteria.--

644 (1) If a local exchange telecommunications company has

645 | elected, pursuant to s. 364.051(6), to have its basic local
 646 | telecommunications services treated the same as its nonbasic
 647 | services, the following procedures shall be available:

648 | (a) Any petition filed by a substantially interested party
 649 | against a local exchange telecommunications company seeking a
 650 | stay of the effective date of a price reduction for a basic
 651 | local telecommunications service, alleging an anticompetitive
 652 | price reduction pursuant to s. 364.051(5), s. 364.08, ~~s. 364.09~~,
 653 | s. 364.10, or s. 364.3381, shall be resolved by the commission
 654 | pursuant to this section and by an order issued within 45 days
 655 | after the date the petition is filed.

656 | Section 17. Section 364.105, Florida Statutes, is amended
 657 | to read:

658 | 364.105 Discounted rate for basic service for former
 659 | Lifeline subscribers.--Each local exchange telecommunications
 660 | company shall offer discounted residential basic local
 661 | telecommunications service at 70 percent of the residential
 662 | local telecommunications service rate for any Lifeline
 663 | subscriber who no longer qualifies for Lifeline. A Lifeline
 664 | subscriber who requests such service shall receive the
 665 | discounted price for a period of 1 year after the date the
 666 | subscriber ceases to be qualified for Lifeline. In no event
 667 | shall this preclude the offering of any other discounted
 668 | services which comply with ss. 364.08, ~~364.09~~, and 364.10.

669 | Section 18. This act shall take effect July 1, 2009.