

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

29 | specified provisions do not prevent a local exchange  
30 | telecommunications company from meeting offerings by  
31 | certain competitive providers; revising the purpose of  
32 | certain regulatory oversight; revising provisions for  
33 | direct costs to be covered by the price charged; amending  
34 | s. 364.08, F.S.; prohibiting a telecommunications company  
35 | from charging or receiving compensation for any service  
36 | other than for the charge applicable to the service as  
37 | specified in its schedule on file or otherwise published;  
38 | revising a prohibition against extending an advantage to  
39 | any person; providing an exception for employee  
40 | concessions; repealing s. 364.09, F.S., relating to the  
41 | illegal giving of rebates or special rates by a  
42 | telecommunications company; amending s. 364.10, F.S.;  
43 | revising conditions that require a telecommunications  
44 | carrier to provide Lifeline services to eligible  
45 | customers; removing a provision for certain rate  
46 | increases; amending s. 364.15, F.S.; directing the  
47 | commission to order only repairs and improvements to  
48 | telecommunications facilities for certain services;  
49 | specifying that the commission may impose only those  
50 | requirements which are authorized under law; amending s.  
51 | 364.33, F.S.; providing that a certificate of necessity or  
52 | control thereof may be transferred from a person holding a  
53 | certificate to another or to the parent or affiliate of a  
54 | certificated person, and a person holding a certificate or  
55 | the parent or affiliate of a certificated person may  
56 | acquire ownership or control of a telecommunications

57 facility without prior approval of the commission;  
 58 requiring the person to give certain notice to the  
 59 commission and affected customers; amending ss. 364.335  
 60 and 364.345, F.S.; conforming provisions to changes made  
 61 in the act; amending s. 364.3376, F.S.; requiring  
 62 providers of telephone operator services to comply with  
 63 certain enumerated criteria; requiring such provider to  
 64 bill for services at the rates set in its published  
 65 schedules; amending s. 364.3382, F.S.; requiring each  
 66 local exchange telecommunications company to advise each  
 67 residential customer of the least-cost service available  
 68 to that customer when the residential customer initially  
 69 requests basic local telecommunications service; amending  
 70 s. 364.603, F.S.; providing procedures for resolving  
 71 complaints regarding preferred carrier freezes on local  
 72 exchange service; amending ss. 364.059 and 364.105, F.S.;  
 73 conforming cross-references; providing an effective date.

74

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

76

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

79 Section 2. Section 364.013, Florida Statutes, is amended  
 80 to read:

81 364.013 Emerging and advanced services.--Broadband service  
 82 and the provision of voice-over-Internet-protocol (VoIP) are  
 83 exempt from commission jurisdiction and shall be free of state  
 84 regulation, except as delineated in this chapter ~~or as~~

85 ~~specifically authorized by federal law,~~ regardless of the  
 86 provider, platform, or protocol. Notwithstanding the exemptions  
 87 in this chapter, a competitive local exchange telecommunications  
 88 company is entitled to interconnection with a local exchange  
 89 telecommunications company to transmit and route voice traffic  
 90 between both the competitive local exchange telecommunications  
 91 company and the local exchange telecommunications company  
 92 regardless of the technology by which the voice traffic is  
 93 originated by and terminated to an end user. The commission  
 94 shall afford such competitive local exchange telecommunications  
 95 company all substantive and procedural rights available to such  
 96 companies regarding interconnection under the law.

97 Section 3. Subsections (1), (10), and (14) of section  
 98 364.02, Florida Statutes, are amended to read:

99 364.02 Definitions.--As used in this chapter:

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

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113 (10) "Nonbasic service" means any telecommunications  
114 service provided by a local exchange telecommunications company  
115 other than a basic local telecommunications service, a local  
116 interconnection arrangement described in s. 364.16, or a network  
117 access service described in s. 364.163. Basic service, when  
118 combined with a nonbasic service or an unregulated service  
119 provided by the local exchange telecommunications company or any  
120 of its affiliates or provided in conjunction with nonbasic or  
121 unregulated services, is nonbasic service.

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

129 (a) An entity that ~~which~~ provides a telecommunications  
130 facility exclusively to a certificated telecommunications  
131 company;

132 (b) An entity that ~~which~~ provides a telecommunications  
133 facility exclusively to a company which is excluded from the  
134 definition of a telecommunications company under this  
135 subsection;

136 (c) A commercial mobile radio service provider;

137 (d) A facsimile transmission service;

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

140 (f) A cable television company providing cable service as

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141 defined in 47 U.S.C. s. 522; or

142 (g) An intrastate interexchange telecommunications  
143 company.

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

161 Section 4. Section 364.04, Florida Statutes, is amended to  
162 read:

163 364.04 Schedules of rates, tolls, rentals, ~~contracts,~~ and  
164 charges; filing; public inspection.--

165 (1) ~~Upon order of the commission,~~ Every telecommunications  
166 company shall publish through electronic or physical media file  
167 ~~with the commission, and shall print and keep open to public~~  
168 ~~inspection,~~ schedules showing the rates, tolls, rentals,

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169 ~~contracts,~~ and charges of that company for service to be  
170 performed within the state. A telecommunications company may, as  
171 an option, file the published schedules with the commission or  
172 publish its schedules through other reasonably publicly  
173 accessible means, including on a website. A telecommunications  
174 company that does not file its schedules with the commission  
175 shall inform its customers where a customer may view the  
176 telecommunications company's schedules.

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

185 (3) ~~A schedule shall be plainly printed in large type, and~~  
186 ~~a copy thereof shall be kept by every telecommunications company~~  
187 ~~readily accessible to, and for convenient inspection by, the~~  
188 ~~public at such places as may be designated by the commission.~~  
189 ~~Any such schedule shall be immediately produced by the~~  
190 ~~telecommunications company upon the demand of any person.~~

191 (4) ~~A notice printed in bold type and stating that such~~  
192 ~~schedules are on file and open to inspection by any person, the~~  
193 ~~places where the schedules are kept, and that the agent will~~  
194 ~~assist any person to determine from such schedules any rate,~~  
195 ~~toll, rental, rule, or regulation which is in force shall be~~  
196 ~~kept posted by every telecommunications company as the~~

197 ~~commission designates.~~

198 Section 5. Paragraph (c) of subsection (1), paragraph (c)  
 199 of subsection (2), paragraph (b) of subsection (4), and  
 200 subsection (5) of section 364.051, Florida Statutes, are amended  
 201 to read:

202 364.051 Price regulation.--

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

207 (c) Each company subject to this section is ~~shall be~~  
 208 exempt from rate base, rate of return regulation, and the  
 209 requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055,  
 210 364.14, 364.17, ~~and~~ 364.18, and 364.19.

211 (2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.--Price  
 212 regulation of basic local telecommunications service shall  
 213 consist of the following:

214 (c) There shall be a flat-rate pricing option for basic  
 215 local telecommunications service ~~services~~, and mandatory  
 216 measured service for basic local telecommunications service  
 217 ~~services~~ shall not be imposed.

218 (4)

219 (b) For purposes of this section, evidence of damage  
 220 occurring to the lines, plants, or facilities of a local  
 221 exchange telecommunications company ~~that is subject to the~~  
 222 ~~carrier-of-last-resort obligations~~, which damage is the result  
 223 of a tropical system occurring after June 1, 2005, and named by  
 224 the National Hurricane Center, constitutes a compelling showing



225 of changed circumstances.

226 1. A company may file a petition to recover its intrastate  
227 costs and expenses relating to repairing, restoring, or  
228 replacing the lines, plants, or facilities damaged by a named  
229 tropical system.

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

232 3. The company must show and the commission shall  
233 determine whether the intrastate costs and expenses are  
234 reasonable under the circumstances for the named tropical  
235 system.

236 4. A company having a storm-reserve fund may recover  
237 tropical-system-related costs and expenses from its customers  
238 only in excess of any amount available in the storm-reserve  
239 fund.

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

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

253 | ordered amount, the commission shall order the company to refund  
 254 | the excess.

255 |         7. In order to qualify for filing a petition under this  
 256 | paragraph, a company with 1 million or more access lines, but  
 257 | fewer than 3 million access lines, must have tropical-system-  
 258 | related costs and expenses exceeding \$1.5 million, and a company  
 259 | with 3 million or more access lines must have tropical-system-  
 260 | related costs and expenses of \$5 million or more. A company with  
 261 | fewer than 1 million access lines is not required to meet a  
 262 | minimum damage threshold in order to qualify to file a petition  
 263 | under this paragraph.

264 |         8. A company may file only one petition for storm recovery  
 265 | in any 12-month period for the previous storm season, but the  
 266 | application may cover damages from more than one named tropical  
 267 | system.

268 |  
 269 | ~~This paragraph is not intended to adversely affect the~~  
 270 | ~~commission's consideration of any petition for an increase in~~  
 271 | ~~basic rates to recover costs related to storm damage which was~~  
 272 | ~~filed before the effective date of this act.~~

273 |         (5) NONBASIC SERVICES.--Price regulation of nonbasic  
 274 | services shall consist of the following:

275 |         (a) Each company subject to this section shall, ~~at its~~  
 276 | ~~option, maintain tariffs with the commission or otherwise~~  
 277 | ~~publicly publish the terms, conditions, and rates for each of~~  
 278 | ~~its nonbasic services, and may set or change, on 1 day's notice,~~  
 279 | the rate for each of its nonbasic services. ~~For a company~~  
 280 | ~~electing to publicly publish the terms, conditions, and rates~~

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281 ~~for each of its nonbasic services, the commission may establish~~  
282 ~~guidelines for the publication. The guidelines may not require~~  
283 ~~more information than what is required to be filed with a~~  
284 ~~tariff. The price increase for any nonbasic service category~~  
285 ~~shall not exceed 6 percent within a 12-month period until there~~  
286 ~~is another provider providing local telecommunications service~~  
287 ~~in an exchange area at which time the price for any nonbasic~~  
288 ~~service category may be increased in an amount not to exceed 10~~  
289 ~~20 percent within a 12-month period, and the rate shall be~~  
290 ~~presumptively valid. However, the price for any nonbasic service~~  
291 ~~that would have been treated as basic service prior to July 1,~~  
292 ~~2009, shall not be increased by more than the amount allowed for~~  
293 ~~basic service as provided in subsection (2) until July 1, 2012.~~  
294 ~~However, for purposes of this subsection, the prices of:~~  
295 ~~1. A voice-grade, flat-rate, multi-line business local~~  
296 ~~exchange service, including multiple individual lines, centrex~~  
297 ~~lines, private branch exchange trunks, and any associated~~  
298 ~~hunting services, that provides dial tone and local usage~~  
299 ~~necessary to place a call within a local exchange calling area;~~  
300 ~~and~~  
301 ~~2. Telecommunications services provided under contract~~  
302 ~~service arrangements to the SUNCOM Network, as defined in~~  
303 ~~chapter 282,~~  
304  
305 ~~shall be capped at the rates in effect on July 1, 1995, and such~~  
306 ~~rates shall not be increased prior to January 1, 2000; provided,~~  
307 ~~however, that a petition to increase such rates may be filed~~  
308 ~~pursuant to subsection (4) utilizing the standards set forth~~

309 ~~therein. There shall be a flat rate pricing option for multi-~~  
310 ~~line business local exchange service, and mandatory measured~~  
311 ~~service for multi-line business local exchange service shall not~~  
312 ~~be imposed. Nothing contained in This chapter does not section~~  
313 ~~shall~~ prevent the local exchange telecommunications company from  
314 meeting offerings by any competitive provider of the same, or  
315 functionally equivalent, nonbasic services in a specific  
316 geographic market or to a specific customer by deaveraging the  
317 price of any nonbasic service, packaging nonbasic services  
318 together or with basic services, using volume discounts and term  
319 discounts, and offering individual contracts. However, the local  
320 exchange telecommunications company may ~~shall~~ not engage in any  
321 anticompetitive act or practice or, ~~nor~~ unreasonably  
322 discriminate among similarly situated customers.

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

335 ~~(c) The price charged to a consumer for a nonbasic service~~  
336 ~~shall cover the direct costs of providing the service and shall,~~

337 ~~to the extent a cost is not included in the direct cost, include~~  
 338 ~~as an imputed cost the price charged by the company to~~  
 339 ~~competitors for any monopoly component used by a competitor in~~  
 340 ~~the provision of its same or functionally equivalent service.~~

341 Section 6. Section 364.08, Florida Statutes, is amended to  
 342 read:

343 364.08 Unlawful to charge other than schedule rates or  
 344 charges; free service and reduced rates prohibited.--

345 (1) A telecommunications company may not charge, demand,  
 346 collect, or receive for any service rendered or to be rendered  
 347 any compensation other than the charge applicable to such  
 348 service as specified in its schedule on file or otherwise  
 349 published and in effect at that time. A telecommunications  
 350 company may not ~~refund or remit, directly or indirectly, any~~  
 351 ~~portion of the rate or charge so specified or~~ extend to any  
 352 person any advantage of contract or agreement or the benefit of  
 353 any rule or regulation or any privilege or facility not  
 354 regularly and uniformly extended to all persons under like  
 355 circumstances for like or substantially similar service.

356 (2) A telecommunications company subject to this chapter  
 357 may provide ~~not, directly or indirectly, give any free or~~  
 358 ~~reduced service between points within this state. However, it~~  
 359 ~~shall be lawful for the commission to authorize employee~~  
 360 concessions without approval by the commission ~~if in the public~~  
 361 ~~interest.~~

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

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

365           364.10 Undue advantage to person or locality prohibited;  
 366 Lifeline service.--

367           (3) (a) ~~Each Effective September 1, 2003, any~~ local  
 368 exchange telecommunications company that has more than 1 million  
 369 access lines and that is designated as an eligible  
 370 telecommunications carrier authorized by the commission to  
 371 ~~reduce its switched network access rate pursuant to s. 364.164~~  
 372 ~~shall have tariffed and~~ shall provide Lifeline service to any  
 373 otherwise eligible customer or potential customer who meets an  
 374 income eligibility test at 150 ~~135~~ percent or less of the  
 375 federal poverty income guidelines for Lifeline customers. Such a  
 376 test for eligibility must augment, rather than replace, the  
 377 eligibility standards established by federal law and based on  
 378 participation in certain low-income assistance programs. Each  
 379 intrastate interexchange telecommunications company shall,  
 380 ~~effective September 1, 2003, file or publish a schedule tariff~~  
 381 providing at a minimum the intrastate interexchange  
 382 telecommunications carrier's current Lifeline benefits and  
 383 exemptions to Lifeline customers who meet the income eligibility  
 384 test set forth in this subsection. The Office of Public Counsel  
 385 shall certify and maintain claims submitted by a customer for  
 386 eligibility under the income test authorized by this subsection.

387           (b) Each eligible telecommunications carrier subject to  
 388 this subsection shall provide to each state and federal agency  
 389 providing benefits to persons eligible for Lifeline service  
 390 applications, brochures, pamphlets, or other materials that  
 391 inform the persons of their eligibility for Lifeline, and each  
 392 state agency providing the benefits shall furnish the materials

393 to affected persons at the time they apply for benefits.

394 ~~(c) Any local exchange telecommunications company customer~~  
 395 ~~receiving Lifeline benefits shall not be subject to any~~  
 396 ~~residential basic local telecommunications service rate~~  
 397 ~~increases authorized by s. 364.164 until the local exchange~~  
 398 ~~telecommunications company reaches parity as defined in s.~~  
 399 ~~364.164(5) or until the customer no longer qualifies for the~~  
 400 ~~Lifeline benefits established by this section or s. 364.105, or~~  
 401 ~~unless otherwise determined by the commission upon petition by a~~  
 402 ~~local exchange telecommunications company.~~

403 (c) ~~(d)~~ An eligible telecommunications carrier may not  
 404 discontinue basic local exchange telephone service to a  
 405 subscriber who receives Lifeline service because of nonpayment  
 406 by the subscriber of charges for nonbasic services billed by the  
 407 telecommunications company, including long-distance service. A  
 408 subscriber who receives Lifeline service shall ~~be required to~~  
 409 pay all applicable basic local exchange service fees, including  
 410 the subscriber line charge, E-911, telephone relay system  
 411 charges, and applicable state and federal taxes.

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

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

421        (f)~~(g)~~ An eligible telecommunications carrier may block a  
422 Lifeline service subscriber's access to all long-distance  
423 service, except for toll-free numbers, and may block the ability  
424 to accept collect calls when the subscriber owes an outstanding  
425 amount for long-distance service or amounts resulting from  
426 collect calls. However, the eligible telecommunications carrier  
427 may not impose a charge for blocking long-distance service. The  
428 eligible telecommunications carrier shall remove the block at  
429 the request of the subscriber without additional cost to the  
430 subscriber upon payment of the outstanding amount. An eligible  
431 telecommunications carrier may charge a service deposit before  
432 removing the block.

433        (g)~~(h)~~ 1. By December 31, 2007, each state agency that  
434 provides benefits to persons eligible for Lifeline service shall  
435 undertake, in cooperation with the Department of Children and  
436 Family Services, the Department of Education, the commission,  
437 the Office of Public Counsel, and telecommunications companies  
438 providing Lifeline services, the development of procedures to  
439 promote Lifeline participation.

440        2. If any state agency determines that a person is  
441 eligible for Lifeline services, the agency shall immediately  
442 forward the information to the commission to ensure that the  
443 person is automatically enrolled in the program with the  
444 appropriate eligible telecommunications carrier. The state  
445 agency shall include an option for an eligible customer to  
446 choose not to subscribe to the Lifeline service. The Public  
447 Service Commission and the Department of Children and Family  
448 Services shall, no later than December 31, 2007, adopt rules



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449 creating procedures to automatically enroll eligible customers  
450 in Lifeline service.

451 3. The commission, the Department of Children and Family  
452 Services, and the Office of Public Counsel shall enter into a  
453 memorandum of understanding establishing the respective duties  
454 of the commission, the department, and the public counsel with  
455 respect to the automatic enrollment procedures no later than  
456 December 31, 2007.

457 (h)~~(i)~~ The commission shall report to the Governor, the  
458 President of the Senate, and the Speaker of the House of  
459 Representatives by December 31 each year on the number of  
460 customers who are subscribing to Lifeline service and the  
461 effectiveness of any procedures to promote participation.

462 (i)~~(j)~~ The commission shall adopt rules to administer this  
463 section.

464 Section 9. Section 364.15, Florida Statutes, is amended to  
465 read:

466 364.15 Compelling repairs, improvements, changes,  
467 additions, or extensions.--Whenever the commission finds, on its  
468 own motion or upon complaint, that repairs or improvements to,  
469 or changes in, any telecommunications facility ought reasonably  
470 to be made, or that any additions or extensions should  
471 reasonably be made to any telecommunications facility, in order  
472 to promote the security or convenience of the public or  
473 employees or in order to secure adequate service or facilities  
474 for basic local telecommunications services consistent with the  
475 requirements set forth in this chapter, the commission shall  
476 make and serve an order directing that such repairs,

477 improvements, changes, additions, or extensions be made in the  
478 manner to be specified in the order. This section authorizes the  
479 commission to impose only those requirements that it is  
480 otherwise authorized to impose under this chapter.

481 Section 10. Section 364.33, Florida Statutes, is amended  
482 to read:

483 364.33 Certificate of necessity prerequisite to  
484 construction, operation, or control of telecommunications  
485 facilities.--Except for a transfer of a certificate of necessity  
486 from one person to another or to the parent or affiliate of a  
487 certificated person as provided in this section, a person may  
488 not begin the construction or operation of any  
489 telecommunications facility, or any extension thereof, for the  
490 purpose of providing telecommunications services to the public,  
491 or acquire ownership or control thereof, in whatever manner,  
492 including the acquisition, transfer, or assignment of majority  
493 organizational control or controlling stock ownership, without  
494 prior approval. A certificate of necessity or control thereof  
495 may be transferred from a person holding a certificate or the  
496 parent or an affiliate thereof to another person holding a  
497 certificate or the parent or an affiliate thereof, and a person  
498 holding a certificate or the parent or an affiliate thereof may  
499 acquire ownership or control of a telecommunications facility  
500 through the acquisition, transfer, or assignment of majority  
501 organizational control or controlling stock ownership of a  
502 person holding a certificate without prior approval of the  
503 commission by giving 60 days' written notice of the transfer or  
504 change of control to the commission and affected customers. This

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505 section does not require approval by the commission prior to the  
 506 construction, operation, or extension of a facility by a  
 507 certificated company within its certificated area nor in any way  
 508 limit the commission's ability to review the prudence of such  
 509 construction programs for ratemaking as provided under this  
 510 chapter.

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

513 364.335 Application for certificate.--

514 (4) Except as provided in s. 364.33, revocation,  
 515 suspension, transfer, or amendment of a certificate shall be  
 516 subject to the provisions of this section; except that, when the  
 517 commission initiates the action, the commission shall furnish  
 518 notice to the appropriate local government and to the Public  
 519 Counsel.

520 Section 12. Section 364.3376, Florida Statutes, is amended  
 521 to read:

522 364.3376 Operator services.--

523 (1) (a) A person may not provide operator services as  
 524 defined in s. 364.02 without first obtaining from the commission  
 525 a certificate of public convenience and necessity as an operator  
 526 services provider.

527 (b) This section does not apply to operator services  
 528 provided by a local exchange telecommunications company or by an  
 529 intrastate interexchange telecommunications company, except as  
 530 required by the commission in the public interest.

531 (2) ~~Notwithstanding any finding by the commission that a~~  
 532 ~~service or facility is subject to competition and should be~~

533 ~~regulated pursuant to s. 364.338,~~ All intrastate operator  
 534 service providers are subject to the jurisdiction of the  
 535 commission and shall render operator services pursuant to  
 536 schedules in accordance with s. 364.04 ~~tariffs approved by the~~  
 537 ~~commission.~~

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

541 (3)~~(4)~~ Operator service providers shall:

542 (a) Require operators to:

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

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

546 3. When requested, provide the number to call for  
 547 complaints and inquiries.

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

550 (b) Not intentionally charge for incompletd calls and  
 551 provide full refund or credit for any misbilled or incomplete  
 552 calls.

553 (c) Bill for services in accordance with their published  
 554 schedules ~~approved in their tariff and only at the~~ rates set  
 555 forth therein ~~tariff or otherwise approved rate,~~ and disclose  
 556 their names on bills which include charges for services  
 557 rendered.

558 (4)~~(5)~~ Each call aggregator shall post in the immediate  
 559 vicinity of each telephone available to the public the name of  
 560 the operator service provider, a toll-free customer service

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561 number, a statement that rate quotes are available upon request,  
562 and instructions on how the end user may access other operator  
563 service providers and such other information determined by the  
564 commission to be necessary in the public interest.

565 (5)~~(6)~~ Neither the operator service provider nor the call  
566 aggregator shall block or prevent an end user's access to the  
567 end user's operator service provider of choice, except that the  
568 commission shall grant limited waivers to operator service  
569 providers or call aggregators upon a showing that such waiver is  
570 in the public interest.

571 (6)~~(7)~~ The local exchange telecommunications company shall  
572 not disconnect local service for properly contested nonpayment  
573 of any operator services bill.

574 (7)~~(8)~~ The commission shall adopt and enforce requirements  
575 for the provision of services by operator services companies and  
576 call aggregators.

577 (8)~~(9)~~ Operator service providers and local exchange  
578 companies providing billing and collection services shall ~~only~~  
579 bill and collect only the ~~tariffed~~ rates and charges set forth  
580 in the applicable schedules.

581 (9)~~(10)~~ ~~Notwithstanding any finding by the commission that~~  
582 ~~a service or facility is subject to competition and should be~~  
583 ~~regulated pursuant to s. 364.338, A local exchange~~  
584 telecommunications company may ~~shall~~ not perform billing and  
585 collection functions relating to regulated telecommunications  
586 services provided by an operator services provider unless the  
587 operator services provider has filed a statement with the local  
588 exchange telecommunications company signed by a corporate

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589 officer, or by another authorized person having personal  
590 knowledge, that all regulated telecommunications services to be  
591 billed will ~~shall~~ be rendered pursuant to applicable published  
592 schedules ~~tariffs approved by the commission.~~

593 ~~(10)-(11)~~ The commission shall conduct ~~have the~~  
594 ~~responsibility for conducting~~ an effective program of random,  
595 no-notice compliance investigations of the operator services  
596 providers and call aggregators operating within the state. When  
597 the commission finds a blocking violation, it shall determine  
598 whether the blocking is the responsibility of the call  
599 aggregator or the operator services provider and may fine the  
600 responsible party in accordance with s. 364.285. Upon the  
601 failure of the responsible party to correct a violation within a  
602 mandatory time limit established by the commission or upon a  
603 proven pattern of intentional blocking, the commission shall  
604 order the discontinuance of the call aggregator's telephone  
605 service or revoke the operator services provider's certificate,  
606 as applicable.

607 Section 13. Section 364.3382, Florida Statutes, is amended  
608 to read:

609 364.3382 Disclosure.--

610 ~~(1)~~ A local exchange telecommunications company, when a  
611 residential customer initially requests basic local  
612 telecommunications service, shall advise each residential  
613 customer of the least-cost service available to that customer.  
614 ~~Annually, in the form of a bill insert,~~ the local exchange  
615 telecommunications company shall advise each residential  
616 customer of the price of each service option selected by that

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617 customer. The requirement of an annual notice ~~through a bill~~  
618 ~~insert~~ does not apply to interexchange service.

619 ~~(2) Copies of both the written notices and information~~  
620 ~~provided to customer service representatives concerning the~~  
621 ~~disclosure required pursuant to subsection (1) shall be~~  
622 ~~submitted to the commission for prior approval.~~

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

625 364.345 Certificates; territory served; transfer.--

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

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

631 (b) The approval of the commission.

632 Section 15. Section 364.603, Florida Statutes, is amended  
633 to read:

634 364.603 Methodology for changing telecommunications  
635 provider.--The commission shall adopt rules to prevent the  
636 unauthorized changing of a subscriber's telecommunications  
637 service. Such rules shall be consistent with the  
638 Telecommunications Act of 1996, provide for specific  
639 verification methodologies, provide for the notification to  
640 subscribers of the ability to freeze the subscriber's choice of  
641 carriers at no charge, allow for a subscriber's change to be  
642 considered valid if verification was performed consistent with  
643 the commission's rules, provide for remedies for violations of  
644 the rules, and allow for the imposition of other penalties

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645 available in this chapter. The commission shall resolve on an  
646 expedited basis any complaints of anticompetitive behavior  
647 concerning a local preferred carrier freeze, and the  
648 telecommunications company asserting the existence of a local  
649 preferred carrier freeze that is the subject of the complaint  
650 shall have the burden of proving through competent evidence that  
651 the customer did in fact request the freeze.

652 Section 16. Paragraph (a) of subsection (1) of section  
653 364.059, Florida Statutes, is amended to read:

654 364.059 Procedures for seeking stay; benchmark;  
655 criteria.--

656 (1) If a local exchange telecommunications company has  
657 elected, pursuant to s. 364.051(6), to have its basic local  
658 telecommunications services treated the same as its nonbasic  
659 services, the following procedures shall be available:

660 (a) Any petition filed by a substantially interested party  
661 against a local exchange telecommunications company seeking a  
662 stay of the effective date of a price reduction for a basic  
663 local telecommunications service, alleging an anticompetitive  
664 price reduction pursuant to s. 364.051(5), s. 364.08, ~~s. 364.09,~~  
665 s. 364.10, or s. 364.3381, shall be resolved by the commission  
666 pursuant to this section and by an order issued within 45 days  
667 after the date the petition is filed.

668 Section 17. Section 364.105, Florida Statutes, is amended  
669 to read:

670 364.105 Discounted rate for basic service for former  
671 Lifeline subscribers.--Each local exchange telecommunications  
672 company shall offer discounted residential basic local



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673 | telecommunications service at 70 percent of the residential  
674 | local telecommunications service rate for any Lifeline  
675 | subscriber who no longer qualifies for Lifeline. A Lifeline  
676 | subscriber who requests such service shall receive the  
677 | discounted price for a period of 1 year after the date the  
678 | subscriber ceases to be qualified for Lifeline. In no event  
679 | shall this preclude the offering of any other discounted  
680 | services which comply with ss. 364.08, ~~364.09~~, and 364.10.

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