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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/06/2009	.	
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	.	

The Committee on Commerce (Oelrich) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

364.013 Emerging and advanced services.—Broadband service
and the provision of voice-over-Internet-protocol (VoIP) are
exempt from commission jurisdiction and shall be free of state



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12 regulation, except as delineated in this chapter ~~or as~~
13 ~~specifically authorized by federal law~~, regardless of the
14 provider, platform, or protocol. Notwithstanding the exemptions
15 in this chapter, a competitive local exchange telecommunications
16 company is entitled to interconnection with a local exchange
17 telecommunications company to transmit and route voice traffic
18 between both the competitive local exchange telecommunications
19 company and the local exchange telecommunications company
20 regardless of the technology by which the voice traffic is
21 originated by and terminated to an end user. The commission
22 shall afford such competitive local exchange telecommunications
23 company all substantive and procedural rights available to such
24 companies regarding interconnection under the law.

25 Section 3. Section 364.02, Florida Statutes, is amended to
26 read:

27 364.02 Definitions.—As used in this chapter, the term:

28 (1) "Basic local telecommunications service" means voice-
29 grade, single-line, flat-rate residential, ~~and flat-rate single-~~
30 ~~line business~~ local exchange service that provides services
31 ~~which provide~~ dial tone, local usage necessary to place
32 unlimited calls within a local exchange area, dual tone
33 multifrequency dialing, and access to the following: emergency
34 services such as "911," all locally available interexchange
35 companies, directory assistance, operator services, relay
36 services, and an alphabetical directory listing. For a local
37 exchange telecommunications company, the term includes ~~shall~~
38 ~~include~~ any extended area service routes, and extended calling
39 service in existence or ordered by the commission on or before
40 July 1, 1995.



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

45 (a) Is used to provide access to the Internet; or

46 (b) Provides computer processing, information storage,
47 information content, or protocol conversion in combination with
48 the service.

49

50 The definition of broadband service does not include any
51 intrastate telecommunications services that have been tariffed
52 with the commission on or before January 1, 2005.

53 (3) "Commercial mobile radio service provider" means a
54 commercial mobile radio service provider as defined by and
55 pursuant to 47 U.S.C. ss. 153(27)~~(n)~~ and 332(d).

56 (4) "Commission" means the Florida Public Service
57 Commission.

58 (5) "Competitive local exchange telecommunications company"
59 means any company certificated by the commission to provide
60 local exchange telecommunications services in this state on or
61 after July 1, 1995.

62 (6) "Corporation" includes a corporation, company,
63 association, or joint stock association.

64 (7) "Intrastate interexchange telecommunications company"
65 means any entity that provides intrastate interexchange
66 telecommunications services.

67 (8) "Local exchange telecommunications company" means any
68 company certificated by the commission to provide local exchange
69 telecommunications service in this state on or before June 30,



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70 1995.

71 (9) "Monopoly service" means a telecommunications service
72 for which there is no effective competition, either in fact or
73 by operation of law.

74 (10) "Nonbasic service" means any telecommunications
75 service provided by a local exchange telecommunications company
76 other than a basic local telecommunications service, a local
77 interconnection arrangement described in s. 364.16, or a network
78 access service described in s. 364.163. Any combination of basic
79 service along with a nonbasic service or an unregulated service
80 is nonbasic service.

81 (11) "Operator service" includes, but is not limited to,
82 billing or completion of third-party, person-to-person, collect,
83 or calling card or credit card calls through the use of a live
84 operator or automated equipment.

85 (12) "Operator service provider" means a person who
86 furnishes operator service through a call aggregator.

87 (13) "Service" is to be construed in its broadest and most
88 inclusive sense. The term "service" does not include broadband
89 service or voice-over-Internet protocol service for purposes of
90 regulation by the commission. Nothing herein shall affect the
91 rights and obligations of any entity related to the payment of
92 switched network access rates or other intercarrier
93 compensation, if any, related to voice-over-Internet protocol
94 service. Notwithstanding s. 364.013, and the exemption of
95 services pursuant to this subsection, the commission may
96 arbitrate, enforce, or approve interconnection agreements, and
97 resolve disputes as provided by 47 U.S.C. ss. 251 and 252, or
98 any other applicable federal law or regulation. With respect to



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99 the services exempted in this subsection, regardless of the
100 technology, the duties of a local exchange telecommunications
101 company are only those that the company is obligated to extend
102 or provide under applicable federal law and regulations.

103 (14) "Telecommunications company" includes every
104 corporation, partnership, and person and their lessees,
105 trustees, or receivers appointed by any court whatsoever, and
106 every political subdivision in the state, offering two-way
107 telecommunications service to the public for hire within this
108 state by the use of a telecommunications facility. The term
109 "telecommunications company" does not include:

110 (a) An entity that ~~which~~ provides a telecommunications
111 facility exclusively to a certificated telecommunications
112 company;

113 (b) An entity that ~~which~~ provides a telecommunications
114 facility exclusively to a company which is excluded from the
115 definition of a telecommunications company under this
116 subsection;

117 (c) A commercial mobile radio service provider;

118 (d) A facsimile transmission service;

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

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

123 (g) An intrastate interexchange telecommunications company.
124

125 However, each commercial mobile radio service provider and
126 each intrastate interexchange telecommunications company shall
127 continue to be liable for any taxes imposed under chapters 202,



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128 203, and 212 and any fees assessed under s. 364.025. Each
129 intrastate interexchange telecommunications company shall
130 continue to be subject to ss. 364.04, 364.10(3)(a) and (d),
131 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall
132 provide the commission with the current information as the
133 commission deems necessary to contact and communicate with the
134 company, and shall continue to pay intrastate switched network
135 access rates or other intercarrier compensation to the local
136 exchange telecommunications company or the competitive local
137 exchange telecommunications company for the origination and
138 termination of interexchange telecommunications service, ~~and~~
139 ~~shall reduce its intrastate long distance toll rates in~~
140 ~~accordance with former s. 364.163(2).~~

141 (15) "Telecommunications facility" includes real estate,
142 easements, apparatus, property, and routes used and operated to
143 provide two-way telecommunications service to the public for
144 hire within this state.

145 (16) "VoIP" means the voice-over-Internet protocol as that
146 term is defined in federal law.

147 Section 4. Section 364.04, Florida Statutes, is amended to
148 read:

149 364.04 Schedules of rates, tolls, rentals, ~~contracts,~~ and
150 charges; filing; public inspection.-

151 (1) ~~Upon order of the commission,~~ Every telecommunications
152 company shall publish through electronic or physical media file
153 ~~with the commission, and shall print and keep open to public~~
154 ~~inspection,~~ schedules showing the rates, tolls, rentals,
155 ~~contracts,~~ and charges of that company for service to be
156 performed within the state. A telecommunications company may, as



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157 an option, file the published schedules with the commission or
158 publish its schedules through other reasonably publicly
159 accessible means, including on a website. A telecommunications
160 company that does not file its schedules with the commission
161 shall inform its customers where a customer may view the
162 telecommunications company's schedules.

163 (2) The schedules ~~schedule, as printed and open to public~~
164 ~~inspection,~~ shall plainly state the places ~~between which~~
165 telecommunications service will be rendered and shall also state
166 separately all charges and all privileges or facilities granted
167 or allowed and any rules or regulations or forms of contract
168 which may in anywise change, affect, or determine any of the
169 aggregate of the rates, tolls, rentals, or charges for the
170 service rendered.

171 (3) ~~A schedule shall be plainly printed in large type, and~~
172 ~~a copy thereof shall be kept by every telecommunications company~~
173 ~~readily accessible to, and for convenient inspection by, the~~
174 ~~public at such places as may be designated by the commission.~~
175 ~~Any such schedule shall be immediately produced by the~~
176 ~~telecommunications company upon the demand of any person.~~

177 (4) ~~A notice printed in bold type and stating that such~~
178 ~~schedules are on file and open to inspection by any person, the~~
179 ~~places where the schedules are kept, and that the agent will~~
180 ~~assist any person to determine from such schedules any rate,~~
181 ~~toll, rental, rule, or regulation which is in force shall be~~
182 ~~kept posted by every telecommunications company as the~~
183 ~~commission designates.~~

184 Section 5. Paragraph (c) of subsection (1), paragraph (c)
185 of subsection (2), paragraph (b) of subsection (4), and



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186 subsection (5) of section 364.051, Florida Statutes, are amended
187 to read:

188 364.051 Price regulation.—

189 (1) SCHEDULE.—Notwithstanding any other provisions of this
190 chapter, the following local exchange telecommunications
191 companies shall become subject to the price regulation described
192 in this section on the following dates:

193 (c) Each company subject to this section ~~is shall be~~ exempt
194 from rate base, rate of return regulation, and the requirements
195 of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14,
196 364.17, ~~and~~ 364.18, and 364.19.

197 (2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.—Price
198 regulation of basic local telecommunications service shall
199 consist of the following:

200 (c) There shall be a flat-rate pricing option for basic
201 local telecommunications service ~~services~~, and mandatory
202 measured service for basic local telecommunications service
203 ~~services~~ shall not be imposed.

204 (4)

205 (b) For purposes of this section, evidence of damage
206 occurring to the lines, plants, or facilities of a local
207 exchange telecommunications company ~~that is subject to the~~
208 ~~carrier-of-last-resort obligations~~, which damage is the result
209 of a tropical system occurring after June 1, 2005, and named by
210 the National Hurricane Center, constitutes a compelling showing
211 of changed circumstances.

212 1. A company may file a petition to recover its intrastate
213 costs and expenses relating to repairing, restoring, or
214 replacing the lines, plants, or facilities damaged by a named



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215 tropical system.

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

218 3. The company must show and the commission shall determine
219 whether the intrastate costs and expenses are reasonable under
220 the circumstances for the named tropical system.

221 4. A company having a storm-reserve fund may recover
222 tropical-system-related costs and expenses from its customers
223 only in excess of any amount available in the storm-reserve
224 fund.

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

229 6. The commission may order the company to add an equal
230 line-item charge per access line to the billing statement of the
231 company's retail basic local telecommunications service
232 customers, its retail nonbasic telecommunications service
233 customers, and, to the extent the commission determines
234 appropriate, its wholesale loop unbundled network element
235 customers. At the end of the collection period, the commission
236 shall verify that the collected amount does not exceed the
237 amount authorized by the order. If collections exceed the
238 ordered amount, the commission shall order the company to refund
239 the excess.

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



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

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

253
254 ~~This paragraph is not intended to adversely affect the~~
255 ~~commission's consideration of any petition for an increase in~~
256 ~~basic rates to recover costs related to storm damage which was~~
257 ~~filed before the effective date of this act.~~

258 (5) NONBASIC SERVICES.—Price regulation of nonbasic
259 services shall consist of the following:

260 (a) Each company subject to this section shall, ~~at its~~
261 ~~option, maintain tariffs with the commission or otherwise~~
262 ~~publicly publish the terms, conditions, and rates for each of~~
263 ~~its nonbasic services, and may set or change, on 1 day's notice,~~
264 the rate for each of its nonbasic services. ~~For a company~~
265 ~~electing to publicly publish the terms, conditions, and rates~~
266 ~~for each of its nonbasic services, the commission may establish~~
267 ~~guidelines for the publication. The guidelines may not require~~
268 ~~more information than what is required to be filed with a~~
269 ~~tariff.~~ The price increase for any nonbasic service category
270 shall not exceed 6 percent within a 12-month period until there
271 is another provider providing local telecommunications service
272 in an exchange area at which time the price for any nonbasic



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273 service category may be increased in an amount not to exceed 20
274 percent within a 12-month period, and the rate shall be
275 presumptively valid. However, ~~for purposes of this subsection,~~
276 ~~the prices of:~~

277 1. ~~A voice-grade, flat-rate, multi-line business local~~
278 ~~exchange service, including multiple individual lines, centrex~~
279 ~~lines, private branch exchange trunks, and any associated~~
280 ~~hunting services, that provides dial tone and local usage~~
281 ~~necessary to place a call within a local exchange calling area;~~
282 ~~and~~

283 2. ~~Telecommunications services provided under contract~~
284 ~~service arrangements to the SUNCOM Network, as defined in~~
285 ~~chapter 282,~~

286
287 ~~shall be capped at the rates in effect on July 1, 1995, and~~
288 ~~such rates shall not be increased prior to January 1, 2000;~~
289 ~~provided, however, that a petition to increase such rates may be~~
290 ~~filed pursuant to subsection (4) utilizing the standards set~~
291 ~~forth therein. There shall be a flat-rate pricing option for~~
292 ~~multi-line business local exchange service, and mandatory~~
293 ~~measured service for multi-line business local exchange service~~
294 ~~shall not be imposed. Nothing contained in This chapter does not~~
295 ~~section shall prevent the local exchange telecommunications~~
296 ~~company from meeting offerings by any competitive provider of~~
297 ~~the same, or functionally equivalent, nonbasic services in a~~
298 ~~specific geographic market or to a specific customer by~~
299 ~~deaveraging the price of any nonbasic service, packaging~~
300 ~~nonbasic services together or with basic services, using volume~~
301 ~~discounts and term discounts, and offering individual contracts.~~



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302 However, the local exchange telecommunications company may ~~shall~~
303 not engage in any anticompetitive act or practice or, ~~nor~~
304 unreasonably discriminate among similarly situated customers.

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

317 ~~(c) The price charged to a consumer for a nonbasic service~~
318 ~~shall cover the direct costs of providing the service and shall,~~
319 ~~to the extent a cost is not included in the direct cost, include~~
320 ~~as an imputed cost the price charged by the company to~~
321 ~~competitors for any monopoly component used by a competitor in~~
322 ~~the provision of its same or functionally equivalent service.~~

323 Section 6. Section 364.08, Florida Statutes, is amended to
324 read:

325 364.08 Unlawful to charge other than schedule rates or
326 charges; free service and reduced rates prohibited.-

327 (1) A telecommunications company may not charge, demand,
328 collect, or receive for any service rendered or to be rendered
329 any compensation other than the charge applicable to such
330 service as specified in its schedule on file or otherwise



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331 published and in effect at that time. A telecommunications
332 company may not ~~refund or remit, directly or indirectly, any~~
333 ~~portion of the rate or charge so specified or extend to any~~
334 person any advantage of contract or agreement or the benefit of
335 any rule or regulation or any privilege or facility not
336 regularly and uniformly extended to all persons under like
337 circumstances for like or substantially similar service.

338 (2) A telecommunications company subject to this chapter
339 may provide ~~not, directly or indirectly, give any free or~~
340 ~~reduced service between points within this state. However, it~~
341 ~~shall be lawful for the commission to authorize~~ employee
342 concessions without approval by the commission ~~if in the public~~
343 ~~interest.~~

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

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

347 364.10 Undue advantage to person or locality prohibited;
348 Lifeline service.-

349 (3) (a) Each ~~Effective September 1, 2003, any~~ local exchange
350 telecommunications company that has more than 1 million access
351 lines and that is designated as an eligible telecommunications
352 carrier ~~authorized by the commission to reduce its switched~~
353 ~~network access rate pursuant to s. 364.164 shall have tariffed~~
354 ~~and~~ shall provide Lifeline service to any otherwise eligible
355 customer or potential customer who meets an income eligibility
356 test at 135 percent or less of the federal poverty income
357 guidelines for Lifeline customers. Such a test for eligibility
358 must augment, rather than replace, the eligibility standards
359 established by federal law and based on participation in certain



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360 low-income assistance programs. Each intrastate interexchange
361 telecommunications company shall, ~~effective September 1, 2003,~~
362 file or publish a schedule ~~tariff~~ providing at a minimum the
363 intrastate interexchange telecommunications carrier's current
364 Lifeline benefits and exemptions to Lifeline customers who meet
365 the income eligibility test set forth in this subsection. The
366 Office of Public Counsel shall certify and maintain claims
367 submitted by a customer for eligibility under the income test
368 authorized by this subsection.

369 (b) Each eligible telecommunications carrier subject to
370 this subsection shall provide to each state and federal agency
371 providing benefits to persons eligible for Lifeline service
372 applications, brochures, pamphlets, or other materials that
373 inform the persons of their eligibility for Lifeline, and each
374 state agency providing the benefits shall furnish the materials
375 to affected persons at the time they apply for benefits.

376 (c) Any local exchange telecommunications company customer
377 receiving Lifeline benefits shall not be subject to any
378 residential basic local telecommunications service rate
379 increases authorized by s. 364.164 until the local exchange
380 telecommunications company reaches parity as defined in s.
381 364.164(5) or until the customer no longer qualifies for the
382 Lifeline benefits established by this section or s. 364.105, or
383 unless otherwise determined by the commission upon petition by a
384 local exchange telecommunications company.

385 (d) An eligible telecommunications carrier may not
386 discontinue basic local exchange telephone service to a
387 subscriber who receives Lifeline service because of nonpayment
388 by the subscriber of charges for nonbasic services billed by the



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389 telecommunications company, including long-distance service. A
390 subscriber who receives Lifeline service shall ~~be required to~~
391 pay all applicable basic local exchange service fees, including
392 the subscriber line charge, E-911, telephone relay system
393 charges, and applicable state and federal taxes.

394 (e) An eligible telecommunications carrier may not refuse
395 to connect, reconnect, or provide Lifeline service because of
396 unpaid toll charges or nonbasic charges other than basic local
397 exchange service.

398 (f) An eligible telecommunications carrier may require that
399 payment arrangements be made for outstanding debt associated
400 with basic local exchange service, subscriber line charges, E-
401 911, telephone relay system charges, and applicable state and
402 federal taxes.

403 (g) An eligible telecommunications carrier may block a
404 Lifeline service subscriber's access to all long-distance
405 service, except for toll-free numbers, and may block the ability
406 to accept collect calls when the subscriber owes an outstanding
407 amount for long-distance service or amounts resulting from
408 collect calls. However, the eligible telecommunications carrier
409 may not impose a charge for blocking long-distance service. The
410 eligible telecommunications carrier shall remove the block at
411 the request of the subscriber without additional cost to the
412 subscriber upon payment of the outstanding amount. An eligible
413 telecommunications carrier may charge a service deposit before
414 removing the block.

415 (h)1. By December 31, 2007, each state agency that provides
416 benefits to persons eligible for Lifeline service shall
417 undertake, in cooperation with the Department of Children and



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418 Family Services, the Department of Education, the commission,
419 the Office of Public Counsel, and telecommunications companies
420 providing Lifeline services, the development of procedures to
421 promote Lifeline participation.

422 2. If any state agency determines that a person is eligible
423 for Lifeline services, the agency shall immediately forward the
424 information to the commission to ensure that the person is
425 automatically enrolled in the program with the appropriate
426 eligible telecommunications carrier. The state agency shall
427 include an option for an eligible customer to choose not to
428 subscribe to the Lifeline service. The Public Service Commission
429 and the Department of Children and Family Services shall, no
430 later than December 31, 2007, adopt rules creating procedures to
431 automatically enroll eligible customers in Lifeline service.

432 3. The commission, the Department of Children and Family
433 Services, and the Office of Public Counsel shall enter into a
434 memorandum of understanding establishing the respective duties
435 of the commission, the department, and the public counsel with
436 respect to the automatic enrollment procedures no later than
437 December 31, 2007.

438 (i) The commission shall report to the Governor, the
439 President of the Senate, and the Speaker of the House of
440 Representatives by December 31 each year on the number of
441 customers who are subscribing to Lifeline service and the
442 effectiveness of any procedures to promote participation.

443 (j) The commission shall adopt rules to administer this
444 section.

445 Section 9. Section 364.15, Florida Statutes, is amended to
446 read:



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447 364.15 Compelling repairs, improvements, changes,
448 additions, or extensions.—Whenever the commission finds, on its
449 own motion or upon complaint, that repairs or improvements to,
450 or changes in, any telecommunications facility ought reasonably
451 to be made, or that any additions or extensions should
452 reasonably be made to any telecommunications facility, in order
453 to promote the security or convenience of the public or
454 employees or in order to secure adequate service or facilities
455 for basic local telecommunications services consistent with the
456 requirements set forth in this chapter, the commission shall
457 make and serve an order directing that such repairs,
458 improvements, changes, additions, or extensions be made in the
459 manner to be specified in the order. This section authorizes the
460 commission to impose only those requirements that it is
461 otherwise authorized to impose under this chapter.

462 Section 10. Section 364.33, Florida Statutes, is amended to
463 read:

464 364.33 Certificate of necessity prerequisite to
465 construction, operation, or control of telecommunications
466 facilities.—Except for a transfer of a certificate of necessity
467 from one person to another or to the parent or affiliate of a
468 certificated person as provided in this section, a person may
469 not begin the construction or operation of any
470 telecommunications facility, or any extension thereof for the
471 purpose of providing telecommunications services to the public,
472 or acquire ownership or control thereof, in whatever manner,
473 including the acquisition, transfer, or assignment of majority
474 organizational control or controlling stock ownership, without
475 prior approval. A certificate of necessity or control thereof



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476 may be transferred from a person holding a certificate, its
477 parent or an affiliate to another person holding a certificate,
478 its parent or an affiliate and a person holding a certificate,
479 its parent or an affiliate may acquire ownership or control of a
480 telecommunications facility through the acquisition, transfer,
481 or assignment of majority organizational control or controlling
482 stock ownership of a person holding a certificate without prior
483 approval of the commission by giving 60 days' written notice of
484 the transfer or change of control to the commission and affected
485 customers. This section does not require approval by the
486 commission prior to the construction, operation, or extension of
487 a facility by a certificated company within its certificated
488 area nor in any way limit the commission's ability to review the
489 prudence of such construction programs for ratemaking as
490 provided under this chapter.

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

493 364.335 Application for certificate.—

494 (4) Except as provided in s. 364.33, revocation,
495 suspension, transfer, or amendment of a certificate shall be
496 subject to the provisions of this section; except that, when the
497 commission initiates the action, the commission shall furnish
498 notice to the appropriate local government and to the Public
499 Counsel.

500 Section 12. Section 364.3376, Florida Statutes, is amended
501 to read:

502 364.3376 Operator services.—

503 (1) (a) A person may not provide operator services as
504 defined in s. 364.02 without first obtaining from the commission



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505 a certificate of public convenience and necessity as an operator
506 services provider.

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

511 ~~(2) Notwithstanding any finding by the commission that a~~
512 ~~service or facility is subject to competition and should be~~
513 ~~regulated pursuant to s. 364.338, All intrastate operator~~
514 ~~service providers are subject to the jurisdiction of the~~
515 ~~commission and shall render operator services pursuant to~~
516 ~~schedules in accordance with s. 364.04 tariffs approved by the~~
517 ~~commission.~~

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

521 (3)(4) Operator service providers shall:

522 (a) Require operators to:

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

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

526 3. When requested, provide the number to call for
527 complaints and inquiries.

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

530 (b) Not intentionally charge for incompletd calls and
531 provide full refund or credit for any misbilled or incomplete
532 calls.

533 (c) Bill for services in accordance with their published



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534 ~~schedules approved in their tariff and only at the rates set~~
535 ~~forth therein tariff or otherwise approved rate,~~ and disclose
536 their names on bills which include charges for services
537 rendered.

538 ~~(4)(5)~~ Each call aggregator shall post in the immediate
539 vicinity of each telephone available to the public the name of
540 the operator service provider, a toll-free customer service
541 number, a statement that rate quotes are available upon request,
542 and instructions on how the end user may access other operator
543 service providers and such other information determined by the
544 commission to be necessary in the public interest.

545 ~~(5)(6)~~ Neither the operator service provider nor the call
546 aggregator shall block or prevent an end user's access to the
547 end user's operator service provider of choice, except that the
548 commission shall grant limited waivers to operator service
549 providers or call aggregators upon a showing that such waiver is
550 in the public interest.

551 ~~(6)(7)~~ The local exchange telecommunications company shall
552 not disconnect local service for properly contested nonpayment
553 of any operator services bill.

554 ~~(7)(8)~~ The commission shall adopt and enforce requirements
555 for the provision of services by operator services companies and
556 call aggregators.

557 ~~(8)(9)~~ Operator service providers and local exchange
558 companies providing billing and collection services shall ~~only~~
559 bill and collect only the ~~tariffed~~ rates and charges set forth
560 in the applicable schedules.

561 ~~(9)(10)~~ Notwithstanding any finding by the commission that
562 a service or facility is subject to competition and should be



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563 ~~regulated pursuant to s. 364.338,~~ A local exchange
564 telecommunications company may ~~shall~~ not perform billing and
565 collection functions relating to regulated telecommunications
566 services provided by an operator services provider unless the
567 operator services provider has filed a statement with the local
568 exchange telecommunications company signed by a corporate
569 officer, or by another authorized person having personal
570 knowledge, that all regulated telecommunications services to be
571 billed will ~~shall~~ be rendered pursuant to applicable published
572 schedules ~~tariffs approved by the commission.~~

573 ~~(10)-(11)~~ The commission shall conduct ~~have the~~
574 ~~responsibility for conducting~~ an effective program of random,
575 no-notice compliance investigations of the operator services
576 providers and call aggregators operating within the state. When
577 the commission finds a blocking violation, it shall determine
578 whether the blocking is the responsibility of the call
579 aggregator or the operator services provider and may fine the
580 responsible party in accordance with s. 364.285. Upon the
581 failure of the responsible party to correct a violation within a
582 mandatory time limit established by the commission or upon a
583 proven pattern of intentional blocking, the commission shall
584 order the discontinuance of the call aggregator's telephone
585 service or revoke the operator services provider's certificate,
586 as applicable.

587 Section 13. Section 364.3382, Florida Statutes, is amended
588 to read:

589 364.3382 Disclosure.—

590 ~~(1)~~ A local exchange telecommunications company, when a
591 residential customer initially requests basic local



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592 telecommunications service, shall advise each residential
593 customer of the least-cost service available to that customer.
594 ~~Annually, in the form of a bill insert,~~ the local exchange
595 telecommunications company shall advise each residential
596 customer of the price of each service option selected by that
597 customer. The requirement of an annual notice ~~through a bill~~
598 ~~insert~~ does not apply to interexchange service.

599 ~~(2) Copies of both the written notices and information~~
600 ~~provided to customer service representatives concerning the~~
601 ~~disclosure required pursuant to subsection (1) shall be~~
602 ~~submitted to the commission for prior approval.~~

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

605 364.345 Certificates; territory served; transfer.—

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

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

611 (b) The approval of the commission.

612 Section 15. Section 364.603, Florida Statutes, is amended
613 to read:

614 364.603 Methodology for changing telecommunications
615 provider.—The commission shall adopt rules to prevent the
616 unauthorized changing of a subscriber's telecommunications
617 service. Such rules shall be consistent with the
618 Telecommunications Act of 1996, provide for specific
619 verification methodologies, provide for the notification to
620 subscribers of the ability to freeze the subscriber's choice of



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621 carriers at no charge, allow for a subscriber's change to be
622 considered valid if verification was performed consistent with
623 the commission's rules, provide for remedies for violations of
624 the rules, and allow for the imposition of other penalties
625 available in this chapter. The commission shall resolve on an
626 expedited basis any complaints of anti-competitive behavior
627 concerning a local preferred carrier freeze, and shall require
628 the telecommunications company asserting the existence of a
629 local preferred carrier freeze that is the subject of the
630 complaint, to produce those records required to be maintained
631 pursuant to federal rules.

632 Section 16. Paragraph (a) of subsection (1) of section
633 364.059, Florida Statutes, is amended to read:

634 364.059 Procedures for seeking stay; benchmark; criteria.-

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

639 (a) Any petition filed by a substantially interested party
640 against a local exchange telecommunications company seeking a
641 stay of the effective date of a price reduction for a basic
642 local telecommunications service, alleging an anticompetitive
643 price reduction pursuant to s. 364.051(5), s. 364.08, ~~s. 364.09,~~
644 s. 364.10, or s. 364.3381, shall be resolved by the commission
645 pursuant to this section and by an order issued within 45 days
646 after the date the petition is filed.

647 Section 17. Section 364.105, Florida Statutes, is amended
648 to read:

649 364.105 Discounted rate for basic service for former



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650 Lifeline subscribers.—Each local exchange telecommunications
651 company shall offer discounted residential basic local
652 telecommunications service at 70 percent of the residential
653 local telecommunications service rate for any Lifeline
654 subscriber who no longer qualifies for Lifeline. A Lifeline
655 subscriber who requests such service shall receive the
656 discounted price for a period of 1 year after the date the
657 subscriber ceases to be qualified for Lifeline. In no event
658 shall this preclude the offering of any other discounted
659 services which comply with ss. 364.08, ~~364.09~~, and 364.10.

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

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662
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664 ===== T I T L E A M E N D M E N T =====

665 And the title is amended as follows:

666 Delete everything before the enacting clause
667 and insert:

668 A bill to be entitled

669 An act relating to telecommunications companies;
670 creating the "Consumer Choice and Protection Act";
671 amending s. 364.013, F.S.; providing for local
672 interconnection rights regardless of technology;
673 amending s. 364.02, F.S.; redefining the terms "basic
674 local telecommunications service," "nonbasic service,"
675 and "telecommunications company"; amending s. 364.04,
676 F.S.; requiring each telecommunications company to
677 publish through electronic or physical media the
678 company's schedules showing its rates, tolls, rentals,



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679 contracts, and charges; authorizing a
680 telecommunications company to file the published
681 schedules with the Public Service Commission or to
682 publish the schedules through other reasonably
683 publicly accessible means, including on a website;
684 deleting standards for printing schedules and notices;
685 amending s. 364.051, F.S.; removing a limitation on
686 eligibility to request an increase in basic rates due
687 to storm damage; deleting provisions relating to rate
688 increases for nonbasic services; amending s. 364.08,
689 F.S.; prohibiting a telecommunications company from
690 charging or receiving compensation for any service
691 other than for the charge applicable to the service as
692 specified in its schedule on file or otherwise
693 published; providing an exception for employee
694 concessions; repealing s. 364.09, F.S., relating to
695 the illegal giving of rebates or special rates by a
696 telecommunications company; amending s. 364.10, F.S.;
697 providing the conditions that require a
698 telecommunications carrier to provide Lifeline
699 services to eligible customers; amending s. 364.15,
700 F.S.; requiring that the Public Service Commission
701 order only those repairs and improvements to
702 telecommunications facilities which are authorized
703 under law; amending s. 364.33, F.S.; providing that a
704 certificate of necessity may be transferred from a
705 person holding a certificate to another, and a person
706 holding a certificate may acquire ownership or control
707 of a telecommunications facility without prior



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708 approval of the commission; amending ss. 364.335 and
709 364.345, F.S.; conforming provisions to changes made
710 in the act; amending s. 364.3376, F.S.; requiring
711 providers of telephone operator services to comply
712 with certain enumerated criteria; requiring the
713 operator services to bill for services in accordance
714 with published schedules; amending s. 364.3382, F.S.;
715 requiring each local exchange telecommunications
716 company to advise each residential customer of the
717 least-cost service available to that customer when the
718 residential customer initially requests basic local
719 telecommunications service; amending s. 364.603, F.S.;
720 providing procedures for resolving complaints
721 regarding preferred carrier freezes on local exchange
722 service; amending ss. 364.059 and 364.105, F.S.;
723 conforming cross-references; providing an effective
724 date.