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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2009	.	
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The Committee on Communications, Energy, and Public Utilities  
(Haridopolos) 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) shall



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

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

28 364.02 Definitions.—As used in this chapter, the term:

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



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41 July 1, 1995.

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

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

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

50

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

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

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

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

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

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

68 (8) "Local exchange telecommunications company" means any  
69 company certificated by the commission to provide local exchange



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70 telecommunications service in this state on or before June 30,  
71 1995.

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

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

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

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

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



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

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

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

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

118 (c) A commercial mobile radio service provider;

119 (d) A facsimile transmission service;

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

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

124 (g) An intrastate interexchange telecommunications company.

125  
126 However, each commercial mobile radio service provider and each  
127 intrastate interexchange telecommunications company shall



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128 continue to be liable for any taxes imposed under chapters 202,  
129 203, and 212 and any fees assessed under s. 364.025. Each  
130 intrastate interexchange telecommunications company shall  
131 continue to be subject to ss. 364.04, 364.10(3)(a) and (c)~~(d)~~,  
132 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall  
133 provide the commission with the current information as the  
134 commission deems necessary to contact and communicate with the  
135 company, and shall continue to pay intrastate switched network  
136 access rates or other intercarrier compensation to the local  
137 exchange telecommunications company or the competitive local  
138 exchange telecommunications company for the origination and  
139 termination of interexchange telecommunications service, ~~and~~  
140 ~~shall reduce its intrastate long distance toll rates in~~  
141 ~~accordance with former s. 364.163(2).~~

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

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

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

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

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



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

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

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

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

185 Section 5. Paragraph (c) of subsection (1), paragraph (c)



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186 of subsection (2), paragraph (b) of subsection (4), and  
187 subsection (5) of section 364.051, Florida Statutes, are amended  
188 to read:

189 364.051 Price regulation.—

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

194 (c) Each company subject to this section is ~~shall be~~ exempt  
195 from rate base, rate of return regulation, and the requirements  
196 of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14,  
197 364.17, ~~and~~ 364.18, and 364.19.

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

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

205 (4)

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

213 1. A company may file a petition to recover its intrastate  
214 costs and expenses relating to repairing, restoring, or





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215 replacing the lines, plants, or facilities damaged by a named  
216 tropical system.

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

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

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

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

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

241         7. In order to qualify for filing a petition under this  
242 paragraph, a company with 1 million or more access lines, but  
243 fewer than 3 million access lines, must have tropical-system-



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244 related costs and expenses exceeding \$1.5 million, and a company  
245 with 3 million or more access lines must have tropical-system-  
246 related costs and expenses of \$5 million or more. A company with  
247 fewer than 1 million access lines is not required to meet a  
248 minimum damage threshold in order to qualify to file a petition  
249 under this paragraph.

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

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

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

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



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

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

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

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



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

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

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

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

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

328 (1) A telecommunications company may not charge, demand,  
329 collect, or receive for any service rendered or to be rendered  
330 any compensation other than the charge applicable to such



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

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

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

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

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

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



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

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

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

386 (d) An eligible telecommunications carrier may not  
387 discontinue basic local exchange telephone service to a  
388 subscriber who receives Lifeline service because of nonpayment



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

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

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

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

416 (h)1. By December 31, 2007, each state agency that provides  
417 benefits to persons eligible for Lifeline service shall



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

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

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

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

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

446         Section 9. Section 364.15, Florida Statutes, is amended to





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447 read:

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

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

465       364.33 Certificate of necessity prerequisite to  
466 construction, operation, or control of telecommunications  
467 facilities.—Except for a transfer of a certificate of necessity  
468 from one person to another as provided in this section, a person  
469 may 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 may be transferred



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

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

492 364.335 Application for certificate.—

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

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

501 364.3376 Operator services.—

502 (1) (a) A person may not provide operator services as  
503 defined in s. 364.02 without first obtaining from the commission  
504 a certificate of public convenience and necessity as an operator



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505 services provider.

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

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

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

520 (3)~~(4)~~ Operator service providers shall:

521 (a) Require operators to:

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

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

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

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

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

532 (c) Bill for services in accordance with their published  
533 schedules ~~approved in their tariff and only at the~~ rates set



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534 forth therein ~~tariff or otherwise approved rate~~, and disclose  
535 their names on bills which include charges for services  
536 rendered.

537 (4)~~(5)~~ Each call aggregator shall post in the immediate  
538 vicinity of each telephone available to the public the name of  
539 the operator service provider, a toll-free customer service  
540 number, a statement that rate quotes are available upon request,  
541 and instructions on how the end user may access other operator  
542 service providers and such other information determined by the  
543 commission to be necessary in the public interest.

544 (5)~~(6)~~ Neither the operator service provider nor the call  
545 aggregator shall block or prevent an end user's access to the  
546 end user's operator service provider of choice, except that the  
547 commission shall grant limited waivers to operator service  
548 providers or call aggregators upon a showing that such waiver is  
549 in the public interest.

550 (6)~~(7)~~ The local exchange telecommunications company shall  
551 not disconnect local service for properly contested nonpayment  
552 of any operator services bill.

553 (7)~~(8)~~ The commission shall adopt and enforce requirements  
554 for the provision of services by operator services companies and  
555 call aggregators.

556 (8)~~(9)~~ Operator service providers and local exchange  
557 companies providing billing and collection services shall ~~only~~  
558 bill and collect only the ~~tariffed~~ rates and charges set forth  
559 in the applicable schedules.

560 (9)~~(10)~~ ~~Notwithstanding any finding by the commission that~~  
561 ~~a service or facility is subject to competition and should be~~  
562 ~~regulated pursuant to s. 364.338, A local exchange~~



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

572 (10) ~~(11)~~ The commission shall conduct ~~have the~~  
573 ~~responsibility for conducting~~ an effective program of random,  
574 no-notice compliance investigations of the operator services  
575 providers and call aggregators operating within the state. When  
576 the commission finds a blocking violation, it shall determine  
577 whether the blocking is the responsibility of the call  
578 aggregator or the operator services provider and may fine the  
579 responsible party in accordance with s. 364.285. Upon the  
580 failure of the responsible party to correct a violation within a  
581 mandatory time limit established by the commission or upon a  
582 proven pattern of intentional blocking, the commission shall  
583 order the discontinuance of the call aggregator's telephone  
584 service or revoke the operator services provider's certificate,  
585 as applicable.

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

588 364.3382 Disclosure.—

589 ~~(1)~~ A local exchange telecommunications company, when a  
590 residential customer initially requests basic local  
591 telecommunications service, shall advise each residential



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

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

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

604 364.345 Certificates; territory served; transfer.—

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

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

610 (b) The approval of the commission.

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

613 364.603 Methodology for changing telecommunications  
614 provider.—The commission shall adopt rules to prevent the  
615 unauthorized changing of a subscriber's telecommunications  
616 service. Such rules shall be consistent with the  
617 Telecommunications Act of 1996, provide for specific  
618 verification methodologies, provide for the notification to  
619 subscribers of the ability to freeze the subscriber's choice of  
620 carriers at no charge, allow for a subscriber's change to be



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621 considered valid if verification was performed consistent with  
622 the commission's rules, provide for remedies for violations of  
623 the rules, and allow for the imposition of other penalties  
624 available in this chapter. The commission shall resolve any  
625 complaints of anticompetitive behavior concerning a local  
626 preferred carrier freeze consistent with s. 364.058 and shall  
627 require the telecommunications company asserting the existence  
628 of a local preferred carrier freeze that is the subject of the  
629 complaint to produce those records required to be maintained  
630 pursuant to federal rules on an expedited basis.

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

633 364.059 Procedures for seeking stay; benchmark; criteria.-

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

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

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

648 364.105 Discounted rate for basic service for former  
649 Lifeline subscribers.-Each local exchange telecommunications



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

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

660  
661 ===== T I T L E A M E N D M E N T =====

662 And the title is amended as follows:

663 Delete everything before the enacting clause  
664 and insert:

665 A bill to be entitled  
666 An act relating to telecommunications companies;  
667 creating the "Consumer Choice and Protection Act";  
668 amending s. 364.013, F.S.; providing for local  
669 interconnection rights regardless of technology;  
670 amending s. 364.02, F.S.; redefining the terms "basic  
671 local telecommunications service," "nonbasic service,"  
672 and "telecommunications company"; amending s. 364.04,  
673 F.S.; requiring each telecommunications company to  
674 publish through electronic or physical media the  
675 company's schedules showing its rates, tolls, rentals,  
676 contracts, and charges; authorizing a  
677 telecommunications company to file the published  
678 schedules with the Public Service Commission or to





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679 publish the schedules through other reasonably  
680 publicly accessible means, including on a website;  
681 deleting standards for printing schedules and notices;  
682 amending s. 364.051, F.S.; removing a limitation on  
683 eligibility to request an increase in basic rates due  
684 to storm damage; deleting provisions relating to rate  
685 increases for nonbasic services; amending s. 364.08,  
686 F.S.; prohibiting a telecommunications company from  
687 charging or receiving compensation for any service  
688 other than for the charge applicable to the service as  
689 specified in its schedule on file or otherwise  
690 published; providing an exception for employee  
691 concessions; repealing s. 364.09, F.S., relating to  
692 the illegal giving of rebates or special rates by a  
693 telecommunications company; amending s. 364.10, F.S.;  
694 providing the conditions that require a  
695 telecommunications carrier to provide Lifeline  
696 services to eligible customers; amending s. 364.15,  
697 F.S.; requiring that the Public Service Commission  
698 order only those repairs and improvements to  
699 telecommunications facilities which are authorized  
700 under law; amending s. 364.33, F.S.; providing that a  
701 certificate of necessity may be transferred from a  
702 person holding a certificate to another, and a person  
703 holding a certificate may acquire ownership or control  
704 of a telecommunications facility without prior  
705 approval of the commission; amending ss. 364.335 and  
706 364.345, F.S.; conforming provisions to changes made  
707 in the act; amending s. 364.3376, F.S.; requiring



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