

By the Committee on Communications, Energy, and Public Utilities; and Senators Haridopolos, Ring, Lynn, Oelrich, Smith, Bennett, Gaetz, Altman, and Pruitt

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1 A bill to be entitled
2 An act relating to telecommunications companies;
3 creating the "Consumer Choice and Protection Act";
4 amending s. 364.013, F.S.; providing for local
5 interconnection rights regardless of technology;
6 amending s. 364.02, F.S.; redefining the terms "basic
7 local telecommunications service," "nonbasic service,"
8 and "telecommunications company"; amending s. 364.04,
9 F.S.; requiring each telecommunications company to
10 publish through electronic or physical media the
11 company's schedules showing its rates, tolls, rentals,
12 contracts, and charges; authorizing a
13 telecommunications company to file the published
14 schedules with the Public Service Commission or to
15 publish the schedules through other reasonably
16 publicly accessible means, including on a website;
17 deleting standards for printing schedules and notices;
18 amending s. 364.051, F.S.; removing a limitation on
19 eligibility to request an increase in basic rates due
20 to storm damage; deleting provisions relating to rate
21 increases for nonbasic services; amending s. 364.08,
22 F.S.; prohibiting a telecommunications company from
23 charging or receiving compensation for any service
24 other than for the charge applicable to the service as
25 specified in its schedule on file or otherwise
26 published; providing an exception for employee
27 concessions; repealing s. 364.09, F.S., relating to
28 the illegal giving of rebates or special rates by a
29 telecommunications company; amending s. 364.10, F.S.;

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30 providing the conditions that require a
31 telecommunications carrier to provide Lifeline
32 services to eligible customers; amending s. 364.15,
33 F.S.; requiring that the Public Service Commission
34 order only those repairs and improvements to
35 telecommunications facilities which are authorized
36 under law; amending s. 364.33, F.S.; providing that a
37 certificate of necessity may be transferred from a
38 person holding a certificate to another, and a person
39 holding a certificate may acquire ownership or control
40 of a telecommunications facility without prior
41 approval of the commission; amending ss. 364.335 and
42 364.345, F.S.; conforming provisions to changes made
43 in the act; amending s. 364.3376, F.S.; requiring
44 providers of telephone operator services to comply
45 with certain enumerated criteria; requiring the
46 operator services to bill for services in accordance
47 with published schedules; amending s. 364.3382, F.S.;
48 requiring each local exchange telecommunications
49 company to advise each residential customer of the
50 least-cost service available to that customer when the
51 residential customer initially requests basic local
52 telecommunications service; amending s. 364.603, F.S.;
53 providing procedures for resolving complaints
54 regarding preferred carrier freezes on local exchange
55 service; amending ss. 364.059 and 364.105, F.S.;
56 conforming cross-references; providing an effective
57 date.

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

60
61 Section 1. This act may be cited as the "Consumer Choice
62 and Protection Act."

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

65 364.013 Emerging and advanced services.—Broadband service
66 and the provision of voice-over-Internet-protocol (VoIP) shall
67 be free of state regulation, except as delineated in this
68 chapter or as specifically authorized by federal law, regardless
69 of the provider, platform, or protocol. Notwithstanding the
70 exemptions in this chapter, a competitive local exchange
71 telecommunications company is entitled to interconnection with a
72 local exchange telecommunications company to transmit and route
73 voice traffic between both the competitive local exchange
74 telecommunications company and the local exchange
75 telecommunications company regardless of the technology by which
76 the voice traffic is originated by and terminated to an end
77 user. The commission shall afford such competitive local
78 exchange telecommunications company all substantive and
79 procedural rights available to such companies regarding
80 interconnection under the law.

81 Section 3. Section 364.02, Florida Statutes, is amended to
82 read:

83 364.02 Definitions.—As used in this chapter, the term:

84 (1) "Basic local telecommunications service" means voice-
85 grade, single-line, flat-rate residential, ~~and flat-rate single-~~
86 ~~line business~~ local exchange service that provides services
87 ~~which provide~~ dial tone, local usage necessary to place

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88 unlimited calls within a local exchange area, dual tone
89 multifrequency dialing, and access to the following: emergency
90 services such as "911," all locally available interexchange
91 companies, directory assistance, operator services, relay
92 services, and an alphabetical directory listing. For a local
93 exchange telecommunications company, the term includes ~~shall~~
94 ~~include~~ any extended area service routes, and extended calling
95 service in existence or ordered by the commission on or before
96 July 1, 1995.

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

101 (a) Is used to provide access to the Internet; or
102 (b) Provides computer processing, information storage,
103 information content, or protocol conversion in combination with
104 the service.

105
106 The definition of broadband service does not include any
107 intrastate telecommunications services that have been tariffed
108 with the commission on or before January 1, 2005.

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

112 (4) "Commission" means the Florida Public Service
113 Commission.

114 (5) "Competitive local exchange telecommunications company"
115 means any company certificated by the commission to provide
116 local exchange telecommunications services in this state on or

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117 after July 1, 1995.

118 (6) "Corporation" includes a corporation, company,
119 association, or joint stock association.

120 (7) "Intrastate interexchange telecommunications company"
121 means any entity that provides intrastate interexchange
122 telecommunications services.

123 (8) "Local exchange telecommunications company" means any
124 company certificated by the commission to provide local exchange
125 telecommunications service in this state on or before June 30,
126 1995.

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

130 (10) "Nonbasic service" means any telecommunications
131 service provided by a local exchange telecommunications company
132 other than a basic local telecommunications service, a local
133 interconnection arrangement described in s. 364.16, or a network
134 access service described in s. 364.163. Any combination of basic
135 service along with a nonbasic service or an unregulated service
136 is nonbasic service.

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

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

143 (13) "Service" is to be construed in its broadest and most
144 inclusive sense. The term "service" does not include broadband
145 service or voice-over-Internet protocol service for purposes of

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146 regulation by the commission. Nothing herein shall affect the
147 rights and obligations of any entity related to the payment of
148 switched network access rates or other intercarrier
149 compensation, if any, related to voice-over-Internet protocol
150 service. Notwithstanding s. 364.013, and the exemption of
151 services pursuant to this subsection, the commission may
152 arbitrate, enforce, or approve interconnection agreements, and
153 resolve disputes as provided by 47 U.S.C. ss. 251 and 252, or
154 any other applicable federal law or regulation. With respect to
155 the services exempted in this subsection, regardless of the
156 technology, the duties of a local exchange telecommunications
157 company are only those that the company is obligated to extend
158 or provide under applicable federal law and regulations.

159 (14) "Telecommunications company" includes every
160 corporation, partnership, and person and their lessees,
161 trustees, or receivers appointed by any court whatsoever, and
162 every political subdivision in the state, offering two-way
163 telecommunications service to the public for hire within this
164 state by the use of a telecommunications facility. The term
165 "telecommunications company" does not include:

166 (a) An entity that ~~which~~ provides a telecommunications
167 facility exclusively to a certificated telecommunications
168 company;

169 (b) An entity that ~~which~~ provides a telecommunications
170 facility exclusively to a company which is excluded from the
171 definition of a telecommunications company under this
172 subsection;

173 (c) A commercial mobile radio service provider;

174 (d) A facsimile transmission service;

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

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

179 (g) An intrastate interexchange telecommunications company.
180

181 However, each commercial mobile radio service provider and each
182 intrastate interexchange telecommunications company shall
183 continue to be liable for any taxes imposed under chapters 202,
184 203, and 212 and any fees assessed under s. 364.025. Each
185 intrastate interexchange telecommunications company shall
186 continue to be subject to ss. 364.04, 364.10(3)(a) and (d),
187 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall
188 provide the commission with the current information as the
189 commission deems necessary to contact and communicate with the
190 company, and shall continue to pay intrastate switched network
191 access rates or other intercarrier compensation to the local
192 exchange telecommunications company or the competitive local
193 exchange telecommunications company for the origination and
194 termination of interexchange telecommunications service, ~~and~~
195 ~~shall reduce its intrastate long distance toll rates in~~
196 ~~accordance with former s. 364.163(2).~~

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

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

203 Section 4. Section 364.04, Florida Statutes, is amended to

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204 read:

205 364.04 Schedules of rates, tolls, rentals, ~~contracts,~~ and
206 charges; filing; public inspection.-

207 (1) ~~Upon order of the commission,~~ Every telecommunications
208 company shall publish through electronic or physical media file
209 ~~with the commission, and shall print and keep open to public~~
210 ~~inspection,~~ schedules showing the rates, tolls, rentals,
211 ~~contracts,~~ and charges of that company for service to be
212 performed within the state. A telecommunications company may, as
213 an option, file the published schedules with the commission or
214 publish its schedules through other reasonably publicly
215 accessible means, including on a website. A telecommunications
216 company that does not file its schedules with the commission
217 shall inform its customers where a customer may view the
218 telecommunications company's schedules.

219 (2) The schedules ~~schedule,~~ ~~as printed and open to public~~
220 ~~inspection,~~ shall plainly state the places ~~between which~~
221 telecommunications service will be rendered and shall also state
222 separately all charges and all privileges or facilities granted
223 or allowed and any rules or regulations or forms of contract
224 which may in anywise change, affect, or determine any of the
225 aggregate of the rates, tolls, rentals, or charges for the
226 service rendered.

227 (3) ~~A schedule shall be plainly printed in large type, and~~
228 ~~a copy thereof shall be kept by every telecommunications company~~
229 ~~readily accessible to, and for convenient inspection by, the~~
230 ~~public at such places as may be designated by the commission.~~
231 ~~Any such schedule shall be immediately produced by the~~
232 ~~telecommunications company upon the demand of any person.~~

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233 ~~(4) A notice printed in bold type and stating that such~~
234 ~~schedules are on file and open to inspection by any person, the~~
235 ~~places where the schedules are kept, and that the agent will~~
236 ~~assist any person to determine from such schedules any rate,~~
237 ~~toll, rental, rule, or regulation which is in force shall be~~
238 ~~kept posted by every telecommunications company as the~~
239 ~~commission designates.~~

240 Section 5. Paragraph (c) of subsection (1), paragraph (c)
241 of subsection (2), paragraph (b) of subsection (4), and
242 subsection (5) of section 364.051, Florida Statutes, are amended
243 to read:

244 364.051 Price regulation.—

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

249 (c) Each company subject to this section is ~~shall be~~ exempt
250 from rate base, rate of return regulation, and the requirements
251 of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14,
252 364.17, ~~and~~ 364.18, and 364.19.

253 (2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.—Price
254 regulation of basic local telecommunications service shall
255 consist of the following:

256 (c) There shall be a flat-rate pricing option for basic
257 local telecommunications service ~~services~~, and mandatory
258 measured service for basic local telecommunications service
259 ~~services~~ shall not be imposed.

260 (4)

261 (b) For purposes of this section, evidence of damage

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262 occurring to the lines, plants, or facilities of a local
263 exchange telecommunications company ~~that is subject to the~~
264 ~~carrier-of-last-resort obligations~~, which damage is the result
265 of a tropical system occurring after June 1, 2005, and named by
266 the National Hurricane Center, constitutes a compelling showing
267 of changed circumstances.

268 1. A company may file a petition to recover its intrastate
269 costs and expenses relating to repairing, restoring, or
270 replacing the lines, plants, or facilities damaged by a named
271 tropical system.

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

274 3. The company must show and the commission shall determine
275 whether the intrastate costs and expenses are reasonable under
276 the circumstances for the named tropical system.

277 4. A company having a storm-reserve fund may recover
278 tropical-system-related costs and expenses from its customers
279 only in excess of any amount available in the storm-reserve
280 fund.

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

285 6. The commission may order the company to add an equal
286 line-item charge per access line to the billing statement of the
287 company's retail basic local telecommunications service
288 customers, its retail nonbasic telecommunications service
289 customers, and, to the extent the commission determines
290 appropriate, its wholesale loop unbundled network element

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291 customers. At the end of the collection period, the commission
292 shall verify that the collected amount does not exceed the
293 amount authorized by the order. If collections exceed the
294 ordered amount, the commission shall order the company to refund
295 the excess.

296 7. In order to qualify for filing a petition under this
297 paragraph, a company with 1 million or more access lines, but
298 fewer than 3 million access lines, must have tropical-system-
299 related costs and expenses exceeding \$1.5 million, and a company
300 with 3 million or more access lines must have tropical-system-
301 related costs and expenses of \$5 million or more. A company with
302 fewer than 1 million access lines is not required to meet a
303 minimum damage threshold in order to qualify to file a petition
304 under this paragraph.

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

309
310 ~~This paragraph is not intended to adversely affect the~~
311 ~~commission's consideration of any petition for an increase in~~
312 ~~basic rates to recover costs related to storm damage which was~~
313 ~~filed before the effective date of this act.~~

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

316 (a) Each company subject to this section shall, ~~at its~~
317 ~~option, maintain tariffs with the commission or otherwise~~
318 ~~publicly publish the terms, conditions, and rates for each of~~
319 ~~its nonbasic services, and may set or change, on 1 day's notice,~~

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320 the rate for each of its nonbasic services. ~~For a company~~
321 ~~electing to publicly publish the terms, conditions, and rates~~
322 ~~for each of its nonbasic services, the commission may establish~~
323 ~~guidelines for the publication. The guidelines may not require~~
324 ~~more information than what is required to be filed with a~~
325 ~~tariff.~~ The price increase for any nonbasic service category
326 shall not exceed 6 percent within a 12-month period until there
327 is another provider providing local telecommunications service
328 in an exchange area at which time the price for any nonbasic
329 service category may be increased in an amount not to exceed 20
330 percent within a 12-month period, and the rate shall be
331 presumptively valid. ~~However, for purposes of this subsection,~~
332 ~~the prices of:~~

333 1. ~~A voice-grade, flat-rate, multi-line business local~~
334 ~~exchange service, including multiple individual lines, centrex~~
335 ~~lines, private branch exchange trunks, and any associated~~
336 ~~hunting services, that provides dial tone and local usage~~
337 ~~necessary to place a call within a local exchange calling area;~~
338 ~~and~~

339 2. ~~Telecommunications services provided under contract~~
340 ~~service arrangements to the SUNCOM Network, as defined in~~
341 ~~chapter 282,~~

342
343 ~~shall be capped at the rates in effect on July 1, 1995, and such~~
344 ~~rates shall not be increased prior to January 1, 2000; provided,~~
345 ~~however, that a petition to increase such rates may be filed~~
346 ~~pursuant to subsection (4) utilizing the standards set forth~~
347 ~~therein. There shall be a flat-rate pricing option for multi-~~
348 ~~line business local exchange service, and mandatory measured~~

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349 ~~service for multi-line business local exchange service shall not~~
350 ~~be imposed. Nothing contained in This chapter does not section~~
351 ~~shall~~ prevent the local exchange telecommunications company from
352 meeting offerings by any competitive provider of the same, or
353 functionally equivalent, nonbasic services in a specific
354 geographic market or to a specific customer by deaveraging the
355 price of any nonbasic service, packaging nonbasic services
356 together or with basic services, using volume discounts and term
357 discounts, and offering individual contracts. However, the local
358 exchange telecommunications company may ~~shall~~ not engage in any
359 anticompetitive act or practice or, ~~nor~~ unreasonably
360 discriminate among similarly situated customers.

361 (b) The commission has ~~shall have~~ continuing regulatory
362 oversight of nonbasic services for purposes of ~~ensuring~~
363 ~~resolution of service complaints~~, preventing cross-subsidization
364 of nonbasic services with revenues from basic services, and
365 ensuring that all providers are treated fairly in the
366 telecommunications market. The price charged to a consumer for a
367 nonbasic service shall cover the direct costs of providing the
368 service. The cost standard for determining cross-subsidization
369 is whether the total revenue from a nonbasic service is less
370 than the total long-run incremental cost of the service. Total
371 long-run incremental cost means service-specific volume and
372 nonvolume-sensitive costs.

373 ~~(c) The price charged to a consumer for a nonbasic service~~
374 ~~shall cover the direct costs of providing the service and shall,~~
375 ~~to the extent a cost is not included in the direct cost, include~~
376 ~~as an imputed cost the price charged by the company to~~
377 ~~competitors for any monopoly component used by a competitor in~~

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378 ~~the provision of its same or functionally equivalent service.~~

379 Section 6. Section 364.08, Florida Statutes, is amended to
380 read:

381 364.08 Unlawful to charge other than schedule rates or
382 charges; free service and reduced rates prohibited.-

383 (1) A telecommunications company may not charge, demand,
384 collect, or receive for any service rendered or to be rendered
385 any compensation other than the charge applicable to such
386 service as specified in its schedule on file or otherwise
387 published and in effect at that time. A telecommunications
388 company may not ~~refund or remit, directly or indirectly, any~~
389 ~~portion of the rate or charge so specified or~~ extend to any
390 person any advantage of contract or agreement or the benefit of
391 any rule or regulation or any privilege or facility not
392 regularly and uniformly extended to all persons under like
393 circumstances for like or substantially similar service.

394 (2) A telecommunications company subject to this chapter
395 may provide ~~not, directly or indirectly, give any free or~~
396 ~~reduced service between points within this state. However, it~~
397 ~~shall be lawful for the commission to authorize~~ employee
398 concessions without approval by the commission ~~if in the public~~
399 ~~interest.~~

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

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

403 364.10 Undue advantage to person or locality prohibited;
404 Lifeline service.-

405 (3) (a) Each ~~Effective September 1, 2003, any~~ local exchange
406 telecommunications company that has more than 1 million access

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407 lines and that is designated as an eligible telecommunications
408 carrier ~~authorized by the commission to reduce its switched~~
409 ~~network access rate pursuant to s. 364.164 shall have tariffed~~
410 ~~and~~ shall provide Lifeline service to any otherwise eligible
411 customer or potential customer who meets an income eligibility
412 test at 135 percent or less of the federal poverty income
413 guidelines for Lifeline customers. Such a test for eligibility
414 must augment, rather than replace, the eligibility standards
415 established by federal law and based on participation in certain
416 low-income assistance programs. Each intrastate interexchange
417 telecommunications company shall, ~~effective September 1, 2003,~~
418 file or publish a schedule ~~tariff~~ providing at a minimum the
419 intrastate interexchange telecommunications carrier's current
420 Lifeline benefits and exemptions to Lifeline customers who meet
421 the income eligibility test set forth in this subsection. The
422 Office of Public Counsel shall certify and maintain claims
423 submitted by a customer for eligibility under the income test
424 authorized by this subsection.

425 (b) Each eligible telecommunications carrier subject to
426 this subsection shall provide to each state and federal agency
427 providing benefits to persons eligible for Lifeline service
428 applications, brochures, pamphlets, or other materials that
429 inform the persons of their eligibility for Lifeline, and each
430 state agency providing the benefits shall furnish the materials
431 to affected persons at the time they apply for benefits.

432 (c) Any local exchange telecommunications company customer
433 receiving Lifeline benefits shall not be subject to any
434 residential basic local telecommunications service rate
435 increases authorized by s. 364.164 until the local exchange

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436 telecommunications company reaches parity as defined in s.
437 364.164(5) or until the customer no longer qualifies for the
438 Lifeline benefits established by this section or s. 364.105, or
439 unless otherwise determined by the commission upon petition by a
440 local exchange telecommunications company.

441 (d) An eligible telecommunications carrier may not
442 discontinue basic local exchange telephone service to a
443 subscriber who receives Lifeline service because of nonpayment
444 by the subscriber of charges for nonbasic services billed by the
445 telecommunications company, including long-distance service. A
446 subscriber who receives Lifeline service shall ~~be required to~~
447 pay all applicable basic local exchange service fees, including
448 the subscriber line charge, E-911, telephone relay system
449 charges, and applicable state and federal taxes.

450 (e) An eligible telecommunications carrier may not refuse
451 to connect, reconnect, or provide Lifeline service because of
452 unpaid toll charges or nonbasic charges other than basic local
453 exchange service.

454 (f) An eligible telecommunications carrier may require that
455 payment arrangements be made for outstanding debt associated
456 with basic local exchange service, subscriber line charges, E-
457 911, telephone relay system charges, and applicable state and
458 federal taxes.

459 (g) An eligible telecommunications carrier may block a
460 Lifeline service subscriber's access to all long-distance
461 service, except for toll-free numbers, and may block the ability
462 to accept collect calls when the subscriber owes an outstanding
463 amount for long-distance service or amounts resulting from
464 collect calls. However, the eligible telecommunications carrier

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465 may not impose a charge for blocking long-distance service. The
466 eligible telecommunications carrier shall remove the block at
467 the request of the subscriber without additional cost to the
468 subscriber upon payment of the outstanding amount. An eligible
469 telecommunications carrier may charge a service deposit before
470 removing the block.

471 (h)1. By December 31, 2007, each state agency that provides
472 benefits to persons eligible for Lifeline service shall
473 undertake, in cooperation with the Department of Children and
474 Family Services, the Department of Education, the commission,
475 the Office of Public Counsel, and telecommunications companies
476 providing Lifeline services, the development of procedures to
477 promote Lifeline participation.

478 2. If any state agency determines that a person is eligible
479 for Lifeline services, the agency shall immediately forward the
480 information to the commission to ensure that the person is
481 automatically enrolled in the program with the appropriate
482 eligible telecommunications carrier. The state agency shall
483 include an option for an eligible customer to choose not to
484 subscribe to the Lifeline service. The Public Service Commission
485 and the Department of Children and Family Services shall, no
486 later than December 31, 2007, adopt rules creating procedures to
487 automatically enroll eligible customers in Lifeline service.

488 3. The commission, the Department of Children and Family
489 Services, and the Office of Public Counsel shall enter into a
490 memorandum of understanding establishing the respective duties
491 of the commission, the department, and the public counsel with
492 respect to the automatic enrollment procedures no later than
493 December 31, 2007.

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494 (i) The commission shall report to the Governor, the
495 President of the Senate, and the Speaker of the House of
496 Representatives by December 31 each year on the number of
497 customers who are subscribing to Lifeline service and the
498 effectiveness of any procedures to promote participation.

499 (j) The commission shall adopt rules to administer this
500 section.

501 Section 9. Section 364.15, Florida Statutes, is amended to
502 read:

503 364.15 Compelling repairs, improvements, changes,
504 additions, or extensions.—Whenever the commission finds, on its
505 own motion or upon complaint, that repairs or improvements to,
506 or changes in, any telecommunications facility ought reasonably
507 to be made, or that any additions or extensions should
508 reasonably be made to any telecommunications facility, in order
509 to promote the security or convenience of the public or
510 employees or in order to secure adequate service or facilities
511 for basic local telecommunications services consistent with the
512 requirements set forth in this chapter, the commission shall
513 make and serve an order directing that such repairs,
514 improvements, changes, additions, or extensions be made in the
515 manner to be specified in the order. This section authorizes the
516 commission to impose only those requirements that it is
517 otherwise authorized to impose under this chapter.

518 Section 10. Section 364.33, Florida Statutes, is amended to
519 read:

520 364.33 Certificate of necessity prerequisite to
521 construction, operation, or control of telecommunications
522 facilities.—Except for a transfer of a certificate of necessity

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523 from one person to another as provided in this section, a person
524 may not begin the construction or operation of any
525 telecommunications facility, or any extension thereof for the
526 purpose of providing telecommunications services to the public,
527 or acquire ownership or control thereof, in whatever manner,
528 including the acquisition, transfer, or assignment of majority
529 organizational control or controlling stock ownership, without
530 prior approval. A certificate of necessity may be transferred
531 from a person holding a certificate to another person holding a
532 certificate, and a person holding a certificate may acquire
533 ownership or control of a telecommunications facility through
534 the acquisition, transfer, or assignment of majority
535 organizational control or controlling stock ownership of a
536 person holding a certificate without prior approval of the
537 commission by giving 60 days' written notice of the transfer or
538 change of control to the commission and affected customers. This
539 section does not require approval by the commission prior to the
540 construction, operation, or extension of a facility by a
541 certificated company within its certificated area nor in any way
542 limit the commission's ability to review the prudence of such
543 construction programs for ratemaking as provided under this
544 chapter.

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

547 364.335 Application for certificate.—

548 (4) Except as provided in s. 364.33, revocation,
549 suspension, transfer, or amendment of a certificate shall be
550 subject to the provisions of this section; except that, when the
551 commission initiates the action, the commission shall furnish

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552 notice to the appropriate local government and to the Public
553 Counsel.

554 Section 12. Section 364.3376, Florida Statutes, is amended
555 to read:

556 364.3376 Operator services.—

557 (1) (a) A person may not provide operator services as
558 defined in s. 364.02 without first obtaining from the commission
559 a certificate of public convenience and necessity as an operator
560 services provider.

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

565 ~~(2) Notwithstanding any finding by the commission that a~~
566 ~~service or facility is subject to competition and should be~~
567 ~~regulated pursuant to s. 364.338, All intrastate operator~~
568 ~~service providers are subject to the jurisdiction of the~~
569 ~~commission and shall render operator services pursuant to~~
570 ~~schedules in accordance with s. 364.04 tariffs approved by the~~
571 ~~commission.~~

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

575 (3)~~(4)~~ Operator service providers shall:

576 (a) Require operators to:

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

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

580 3. When requested, provide the number to call for

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581 complaints and inquiries.

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

584 (b) Not intentionally charge for incompletd calls and
585 provide full refund or credit for any misbilled or incomplete
586 calls.

587 (c) Bill for services in accordance with their published
588 schedules approved in their tariff and only at the rates set
589 forth therein tariff or otherwise approved rate, and disclose
590 their names on bills which include charges for services
591 rendered.

592 (4)~~(5)~~ Each call aggregator shall post in the immediate
593 vicinity of each telephone available to the public the name of
594 the operator service provider, a toll-free customer service
595 number, a statement that rate quotes are available upon request,
596 and instructions on how the end user may access other operator
597 service providers and such other information determined by the
598 commission to be necessary in the public interest.

599 (5)~~(6)~~ Neither the operator service provider nor the call
600 aggregator shall block or prevent an end user's access to the
601 end user's operator service provider of choice, except that the
602 commission shall grant limited waivers to operator service
603 providers or call aggregators upon a showing that such waiver is
604 in the public interest.

605 (6)~~(7)~~ The local exchange telecommunications company shall
606 not disconnect local service for properly contested nonpayment
607 of any operator services bill.

608 (7)~~(8)~~ The commission shall adopt and enforce requirements
609 for the provision of services by operator services companies and

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610 call aggregators.

611 ~~(8)-(9)~~ Operator service providers and local exchange
612 companies providing billing and collection services shall ~~only~~
613 bill and collect only the ~~tariffed~~ rates and charges set forth
614 in the applicable schedules.

615 ~~(9)-(10) Notwithstanding any finding by the commission that~~
616 ~~a service or facility is subject to competition and should be~~
617 ~~regulated pursuant to s. 364.338,~~ A local exchange
618 telecommunications company may ~~shall~~ not perform billing and
619 collection functions relating to regulated telecommunications
620 services provided by an operator services provider unless the
621 operator services provider has filed a statement with the local
622 exchange telecommunications company signed by a corporate
623 officer, or by another authorized person having personal
624 knowledge, that all regulated telecommunications services to be
625 billed will ~~shall~~ be rendered pursuant to applicable published
626 schedules ~~tariffs approved by the commission~~.

627 ~~(10)-(11)~~ The commission shall conduct ~~have the~~
628 ~~responsibility for conducting~~ an effective program of random,
629 no-notice compliance investigations of the operator services
630 providers and call aggregators operating within the state. When
631 the commission finds a blocking violation, it shall determine
632 whether the blocking is the responsibility of the call
633 aggregator or the operator services provider and may fine the
634 responsible party in accordance with s. 364.285. Upon the
635 failure of the responsible party to correct a violation within a
636 mandatory time limit established by the commission or upon a
637 proven pattern of intentional blocking, the commission shall
638 order the discontinuance of the call aggregator's telephone

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639 service or revoke the operator services provider's certificate,
640 as applicable.

641 Section 13. Section 364.3382, Florida Statutes, is amended
642 to read:

643 364.3382 Disclosure.—

644 ~~(1)~~ A local exchange telecommunications company, when a
645 residential customer initially requests basic local
646 telecommunications service, shall advise each residential
647 customer of the least-cost service available to that customer.
648 ~~Annually, in the form of a bill insert,~~ the local exchange
649 telecommunications company shall advise each residential
650 customer of the price of each service option selected by that
651 customer. The requirement of an annual notice ~~through a bill~~
652 ~~insert~~ does not apply to interexchange service.

653 ~~(2) Copies of both the written notices and information~~
654 ~~provided to customer service representatives concerning the~~
655 ~~disclosure required pursuant to subsection (1) shall be~~
656 ~~submitted to the commission for prior approval.~~

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

659 364.345 Certificates; territory served; transfer.—

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

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

665 (b) The approval of the commission.

666 Section 15. Section 364.603, Florida Statutes, is amended
667 to read:

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668 364.603 Methodology for changing telecommunications
669 provider.—The commission shall adopt rules to prevent the
670 unauthorized changing of a subscriber's telecommunications
671 service. Such rules shall be consistent with the
672 Telecommunications Act of 1996, provide for specific
673 verification methodologies, provide for the notification to
674 subscribers of the ability to freeze the subscriber's choice of
675 carriers at no charge, allow for a subscriber's change to be
676 considered valid if verification was performed consistent with
677 the commission's rules, provide for remedies for violations of
678 the rules, and allow for the imposition of other penalties
679 available in this chapter. The commission shall resolve any
680 complaints of anticompetitive behavior concerning a local
681 preferred carrier freeze consistent with s. 364.058 and shall
682 require the telecommunications company asserting the existence
683 of a local preferred carrier freeze that is the subject of the
684 complaint to produce those records required to be maintained
685 pursuant to federal rules on an expedited basis.

686 Section 16. Paragraph (a) of subsection (1) of section
687 364.059, Florida Statutes, is amended to read:

688 364.059 Procedures for seeking stay; benchmark; criteria.—

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

693 (a) Any petition filed by a substantially interested party
694 against a local exchange telecommunications company seeking a
695 stay of the effective date of a price reduction for a basic
696 local telecommunications service, alleging an anticompetitive

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697 price reduction pursuant to s. 364.051(5), s. 364.08, ~~s. 364.09,~~
698 s. 364.10, or s. 364.3381, shall be resolved by the commission
699 pursuant to this section and by an order issued within 45 days
700 after the date the petition is filed.

701 Section 17. Section 364.105, Florida Statutes, is amended
702 to read:

703 364.105 Discounted rate for basic service for former
704 Lifeline subscribers.—Each local exchange telecommunications
705 company shall offer discounted residential basic local
706 telecommunications service at 70 percent of the residential
707 local telecommunications service rate for any Lifeline
708 subscriber who no longer qualifies for Lifeline. A Lifeline
709 subscriber who requests such service shall receive the
710 discounted price for a period of 1 year after the date the
711 subscriber ceases to be qualified for Lifeline. In no event
712 shall this preclude the offering of any other discounted
713 services which comply with ss. 364.08, ~~364.09,~~ and 364.10.

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