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1
2 An act relating to telecommunications companies;
3 creating the "Consumer Choice and Protection Act";
4 providing legislative findings and intent; authorizing
5 the Department of Management Services to engage in
6 certain activities related to assessing the need for
7 broadband Internet service in the state, planning for
8 such service, and encouraging the statewide deployment
9 of such service; authorizing the department to apply
10 for and accept certain funds; authorizing the
11 department to enter into contracts; authorizing the
12 department to establish committees or workgroups;
13 authorizing the department to adopt rules; amending s.
14 364.013, F.S.; providing for local interconnection
15 rights regardless of technology; amending s. 364.02,
16 F.S.; redefining the terms "basic local
17 telecommunications service," "nonbasic service," and
18 "telecommunications company"; amending s. 364.04,
19 F.S.; requiring each telecommunications company to
20 publish through electronic or physical media the
21 company's schedules showing its rates, tolls, rentals,
22 contracts, and charges; authorizing a
23 telecommunications company to file the published
24 schedules with the Public Service Commission or to
25 publish the schedules through other reasonably
26 publicly accessible means, including on a website;
27 deleting standards for printing schedules and notices;
28 amending s. 364.051, F.S.; removing a limitation on
29 eligibility to request an increase in basic rates due

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30 to storm damage; providing that the price for any
31 service that was treated as basic service before a
32 specified date may not be increased by more than the
33 amount allowed for basic service; deleting provisions
34 relating to rate increases for nonbasic services;
35 amending s. 364.08, F.S.; prohibiting a
36 telecommunications company from charging or receiving
37 compensation for any service other than for the charge
38 applicable to the service as specified in its schedule
39 on file or otherwise published; providing an exception
40 for employee concessions; repealing s. 364.09, F.S.,
41 relating to the illegal giving of rebates or special
42 rates by a telecommunications company; amending s.
43 364.10, F.S.; providing the conditions that require a
44 telecommunications carrier to provide Lifeline
45 services to eligible customers; amending s. 364.15,
46 F.S.; requiring that the Public Service Commission
47 order only those repairs and improvements to
48 telecommunications facilities which are authorized
49 under law; amending s. 364.33, F.S.; providing that a
50 certificate of necessity may be transferred from a
51 person holding a certificate to another, and a person
52 holding a certificate may acquire ownership or control
53 of a telecommunications facility without prior
54 approval of the commission; amending ss. 364.335 and
55 364.345, F.S.; conforming provisions to changes made
56 in the act; amending s. 364.3376, F.S.; requiring
57 providers of telephone operator services to comply
58 with certain enumerated criteria; requiring the

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59 operator services to bill for services in accordance
60 with published schedules; amending s. 364.3382, F.S.;
61 deleting the requirement that each local exchange
62 telecommunications company submit to the Public
63 Service Commission copies of the written notices and
64 information concerning basic service for prior
65 approval; amending s. 364.603, F.S.; providing
66 procedures for resolving complaints regarding
67 preferred carrier freezes on local exchange service;
68 amending ss. 364.059 and 364.105, F.S.; conforming
69 cross-references; providing an effective date.

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

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

75 Section 2. (1) The Legislature finds that broadband
76 Internet service is critical to the economic development of the
77 state and is beneficial for libraries, schools, colleges and
78 universities, health care providers, and community
79 organizations. The Legislature further finds that barriers exist
80 to the statewide deployment of broadband Internet service,
81 especially in rural, unserved, or underserved communities. The
82 Legislature therefore intends to promote the efficient and
83 effective deployment of broadband Internet service throughout
84 the state through a coordinated statewide effort.

85 (2) The Department of Management Services is authorized to
86 work collaboratively with, and to receive staffing support and
87 other resources from, Enterprise Florida, Inc., state agencies,

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88 local governments, private businesses, and community
89 organizations to:

90 (a) Conduct a needs assessment of broadband Internet
91 service in collaboration with communications service providers,
92 including, but not limited to, wireless and wireline Internet
93 service providers, to develop geographical information system
94 maps at the census tract level that will:

95 1. Identify geographic gaps in broadband services,
96 including areas unserved by any broadband provider and areas
97 served by a single broadband provider;

98 2. Identify the download and upload transmission speeds
99 made available to businesses and individuals in the state, at
100 the census tract level of detail, using data rate benchmarks for
101 broadband service used by the Federal Communications Commission
102 to reflect different speed tiers; and

103 3. Provide a baseline assessment of statewide broadband
104 deployment in terms of percentage of households with broadband
105 availability.

106 (b) Create a strategic plan that has goals and strategies
107 for increasing the use of broadband Internet service in the
108 state.

109 (c) Build and facilitate local technology planning teams or
110 partnerships with members representing cross-sections of the
111 community, which may include, but are not limited to,
112 representatives from the following organizations and industries:
113 libraries, K-12 education, colleges and universities, local
114 health care providers, private businesses, community
115 organizations, economic development organizations, local
116 governments, tourism, parks and recreation, and agriculture.

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117 (d) Encourage the use of broadband Internet service,
118 especially in the rural, unserved, and underserved communities
119 of the state through grant programs having effective strategies
120 to facilitate the statewide deployment of broadband Internet
121 service. For any grants to be awarded, priority must be given to
122 projects that:

123 1. Provide access to broadband education, awareness,
124 training, access, equipment, and support to libraries, schools,
125 colleges and universities, health care providers, and community
126 support organizations.

127 2. Encourage investments in primarily unserved areas to
128 give consumers a choice of more than one broadband Internet
129 service provider.

130 3. Work toward establishing affordable and sustainable
131 broadband Internet service in unserved areas of the state.

132 4. Facilitate the development of applications, programs,
133 and services, including, but not limited to, telework,
134 telemedicine, and e-learning to increase the usage of, and
135 demand for, broadband Internet service in the state.

136 (3) The department may apply for and accept federal funds
137 for purposes of this section, as well as gifts and donations
138 from individuals, foundations, and private organizations.

139 (4) The department is authorized to enter into contracts
140 necessary or useful to carry out the purposes of this section.

141 (5) The department is authorized to establish any committee
142 or workgroup to administer and carry out the purposes of this
143 section.

144 (6) The department is authorized to adopt rules necessary
145 to carry out the purposes of this section, including, without

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146 limitation, the authority to establish definitions of terms
147 pertinent to this section.

148 Section 3. Section 364.013, Florida Statutes, is amended to
149 read:

150 364.013 Emerging and advanced services.—Broadband service
151 and the provision of voice-over-Internet-protocol (VoIP) are
152 exempt from commission jurisdiction and shall be free of state
153 regulation, except as delineated in this chapter ~~or as~~
154 ~~specifically authorized by federal law~~, regardless of the
155 provider, platform, or protocol. Notwithstanding the exemptions
156 in this chapter, a competitive local exchange telecommunications
157 company is entitled to interconnection with a local exchange
158 telecommunications company to transmit and route voice traffic
159 between both the competitive local exchange telecommunications
160 company and the local exchange telecommunications company
161 regardless of the technology by which the voice traffic is
162 originated by and terminated to an end user. The commission
163 shall afford such competitive local exchange telecommunications
164 company all substantive and procedural rights available to such
165 companies regarding interconnection under the law.

166 Section 4. Section 364.02, Florida Statutes, is amended to
167 read:

168 364.02 Definitions.—As used in this chapter, the term:

169 (1) "Basic local telecommunications service" means voice-
170 grade, single-line, flat-rate residential, ~~and flat-rate single-~~
171 ~~line business~~ local exchange service that provides services
172 ~~which provide~~ dial tone, local usage necessary to place
173 unlimited calls within a local exchange area, dual tone
174 multifrequency dialing, and access to the following: emergency

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175 services such as "911," all locally available interexchange
176 companies, directory assistance, operator services, relay
177 services, and an alphabetical directory listing. For a local
178 exchange telecommunications company, the term includes ~~shall~~
179 ~~include~~ any extended area service routes, and extended calling
180 service in existence or ordered by the commission on or before
181 July 1, 1995.

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

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

187 (b) Provides computer processing, information storage,
188 information content, or protocol conversion in combination with
189 the service.

190

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

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

197 (4) "Commission" means the Florida Public Service
198 Commission.

199 (5) "Competitive local exchange telecommunications company"
200 means any company certificated by the commission to provide
201 local exchange telecommunications services in this state on or
202 after July 1, 1995.

203 (6) "Corporation" includes a corporation, company,

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204 association, or joint stock association.

205 (7) "Intrastate interexchange telecommunications company"
206 means any entity that provides intrastate interexchange
207 telecommunications services.

208 (8) "Local exchange telecommunications company" means any
209 company certificated by the commission to provide local exchange
210 telecommunications service in this state on or before June 30,
211 1995.

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

215 (10) "Nonbasic service" means any telecommunications
216 service provided by a local exchange telecommunications company
217 other than a basic local telecommunications service, a local
218 interconnection arrangement described in s. 364.16, or a network
219 access service described in s. 364.163. Any combination of basic
220 service along with a nonbasic service or an unregulated service
221 is nonbasic service.

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

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

228 (13) "Service" is to be construed in its broadest and most
229 inclusive sense. The term "service" does not include broadband
230 service or voice-over-Internet protocol service for purposes of
231 regulation by the commission. Nothing herein shall affect the
232 rights and obligations of any entity related to the payment of

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233 switched network access rates or other intercarrier
234 compensation, if any, related to voice-over-Internet protocol
235 service. Notwithstanding s. 364.013, and the exemption of
236 services pursuant to this subsection, the commission may
237 arbitrate, enforce, or approve interconnection agreements, and
238 resolve disputes as provided by 47 U.S.C. ss. 251 and 252, or
239 any other applicable federal law or regulation. With respect to
240 the services exempted in this subsection, regardless of the
241 technology, the duties of a local exchange telecommunications
242 company are only those that the company is obligated to extend
243 or provide under applicable federal law and regulations.

244 (14) "Telecommunications company" includes every
245 corporation, partnership, and person and their lessees,
246 trustees, or receivers appointed by any court whatsoever, and
247 every political subdivision in the state, offering two-way
248 telecommunications service to the public for hire within this
249 state by the use of a telecommunications facility. The term
250 "telecommunications company" does not include:

251 (a) An entity that ~~which~~ provides a telecommunications
252 facility exclusively to a certificated telecommunications
253 company;

254 (b) An entity that ~~which~~ provides a telecommunications
255 facility exclusively to a company which is excluded from the
256 definition of a telecommunications company under this
257 subsection;

258 (c) A commercial mobile radio service provider;

259 (d) A facsimile transmission service;

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

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

264 (g) An intrastate interexchange telecommunications company.
265

266 However, each commercial mobile radio service provider and each
267 intrastate interexchange telecommunications company shall
268 continue to be liable for any taxes imposed under chapters 202,
269 203, and 212 and any fees assessed under s. 364.025. Each
270 intrastate interexchange telecommunications company shall
271 continue to be subject to ss. 364.04, 364.10(3)(a) and (d),
272 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall
273 provide the commission with the current information as the
274 commission deems necessary to contact and communicate with the
275 company, and shall continue to pay intrastate switched network
276 access rates or other intercarrier compensation to the local
277 exchange telecommunications company or the competitive local
278 exchange telecommunications company for the origination and
279 termination of interexchange telecommunications service, ~~and~~
280 ~~shall reduce its intrastate long distance toll rates in~~
281 ~~accordance with former s. 364.163(2).~~

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

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

288 Section 5. Section 364.04, Florida Statutes, is amended to
289 read:

290 364.04 Schedules of rates, tolls, rentals, ~~contracts,~~ and

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291 charges; filing; public inspection.-

292 (1) ~~Upon order of the commission,~~ Every telecommunications
293 company shall publish through electronic or physical media file
294 ~~with the commission, and shall print and keep open to public~~
295 ~~inspection,~~ schedules showing the rates, tolls, rentals,
296 ~~contracts,~~ and charges of that company for service to be
297 performed within the state. A telecommunications company may, as
298 an option, file the published schedules with the commission or
299 publish its schedules through other reasonably publicly
300 accessible means, including on a website. A telecommunications
301 company that does not file its schedules with the commission
302 shall inform its customers where a customer may view the
303 telecommunications company's schedules.

304 (2) The schedules ~~schedule,~~ as printed and open to public
305 ~~inspection,~~ shall plainly state the places ~~between which~~
306 telecommunications service will be rendered and shall also state
307 separately all charges and all privileges or facilities granted
308 or allowed and any rules or regulations or forms of contract
309 which may in anywise change, affect, or determine any of the
310 aggregate of the rates, tolls, rentals, or charges for the
311 service rendered.

312 (3) ~~A schedule shall be plainly printed in large type, and~~
313 ~~a copy thereof shall be kept by every telecommunications company~~
314 ~~readily accessible to, and for convenient inspection by, the~~
315 ~~public at such places as may be designated by the commission.~~
316 ~~Any such schedule shall be immediately produced by the~~
317 ~~telecommunications company upon the demand of any person.~~

318 (4) ~~A notice printed in bold type and stating that such~~
319 ~~schedules are on file and open to inspection by any person, the~~

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320 ~~places where the schedules are kept, and that the agent will~~
321 ~~assist any person to determine from such schedules any rate,~~
322 ~~toll, rental, rule, or regulation which is in force shall be~~
323 ~~kept posted by every telecommunications company as the~~
324 ~~commission designates.~~

325 Section 6. Paragraph (c) of subsection (1), paragraph (c)
326 of subsection (2), paragraph (b) of subsection (4), and
327 subsection (5) of section 364.051, Florida Statutes, are amended
328 to read:

329 364.051 Price regulation.—

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

334 (c) Each company subject to this section is ~~shall be~~ exempt
335 from rate base, rate of return regulation, and the requirements
336 of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14,
337 364.17, ~~and~~ 364.18, and 364.19.

338 (2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.—Price
339 regulation of basic local telecommunications service shall
340 consist of the following:

341 (c) There shall be a flat-rate pricing option for basic
342 local telecommunications service ~~services~~, and mandatory
343 measured service for basic local telecommunications service
344 ~~services~~ shall not be imposed.

345 (4)

346 (b) For purposes of this section, evidence of damage
347 occurring to the lines, plants, or facilities of a local
348 exchange telecommunications company ~~that is subject to the~~

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349 ~~carrier-of-last-resort obligations~~, which damage is the result
350 of a tropical system occurring after June 1, 2005, and named by
351 the National Hurricane Center, constitutes a compelling showing
352 of changed circumstances.

353 1. A company may file a petition to recover its intrastate
354 costs and expenses relating to repairing, restoring, or
355 replacing the lines, plants, or facilities damaged by a named
356 tropical system.

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

359 3. The company must show and the commission shall determine
360 whether the intrastate costs and expenses are reasonable under
361 the circumstances for the named tropical system.

362 4. A company having a storm-reserve fund may recover
363 tropical-system-related costs and expenses from its customers
364 only in excess of any amount available in the storm-reserve
365 fund.

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

370 6. The commission may order the company to add an equal
371 line-item charge per access line to the billing statement of the
372 company's retail basic local telecommunications service
373 customers, its retail nonbasic telecommunications service
374 customers, and, to the extent the commission determines
375 appropriate, its wholesale loop unbundled network element
376 customers. At the end of the collection period, the commission
377 shall verify that the collected amount does not exceed the

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378 amount authorized by the order. If collections exceed the
379 ordered amount, the commission shall order the company to refund
380 the excess.

381 7. In order to qualify for filing a petition under this
382 paragraph, a company with 1 million or more access lines, but
383 fewer than 3 million access lines, must have tropical-system-
384 related costs and expenses exceeding \$1.5 million, and a company
385 with 3 million or more access lines must have tropical-system-
386 related costs and expenses of \$5 million or more. A company with
387 fewer than 1 million access lines is not required to meet a
388 minimum damage threshold in order to qualify to file a petition
389 under this paragraph.

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

394
395 ~~This paragraph is not intended to adversely affect the~~
396 ~~commission's consideration of any petition for an increase in~~
397 ~~basic rates to recover costs related to storm damage which was~~
398 ~~filed before the effective date of this act.~~

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

401 (a) Each company subject to this section ~~shall, at its~~
402 ~~option, maintain tariffs with the commission or otherwise~~
403 ~~publicly publish the terms, conditions, and rates for each of~~
404 ~~its nonbasic services, and may set or change, on 1 day's notice,~~
405 ~~the rate for each of its nonbasic services. For a company~~
406 ~~electing to publicly publish the terms, conditions, and rates~~

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407 ~~for each of its nonbasic services, the commission may establish~~
408 ~~guidelines for the publication. The guidelines may not require~~
409 ~~more information than what is required to be filed with a~~
410 ~~tariff. The price increase for any nonbasic service category~~
411 ~~shall not exceed 6 percent within a 12-month period until there~~
412 ~~is another provider providing local telecommunications service~~
413 ~~in an exchange area at which time the price for any nonbasic~~
414 ~~service category may be increased in an amount not to exceed 10~~
415 ~~20 percent within a 12-month period, and the rate shall be~~
416 ~~presumptively valid. However, the price for any service that was~~
417 ~~treated as basic service before July 1, 2009, may not be~~
418 ~~increased by more than the amount allowed for basic service as~~
419 ~~provided in paragraph (2) (c) and subsection (3). ~~However, for~~~~
420 ~~purposes of this subsection, the prices of:~~

421 ~~1. A voice-grade, flat-rate, multi-line business local~~
422 ~~exchange service, including multiple individual lines, centrex~~
423 ~~lines, private branch exchange trunks, and any associated~~
424 ~~hunting services, that provides dial tone and local usage~~
425 ~~necessary to place a call within a local exchange calling area;~~
426 ~~and~~

427 ~~2. Telecommunications services provided under contract~~
428 ~~service arrangements to the SUNCOM Network, as defined in~~
429 ~~chapter 282,~~

430
431 ~~shall be capped at the rates in effect on July 1, 1995, and such~~
432 ~~rates shall not be increased prior to January 1, 2000; provided,~~
433 ~~however, that a petition to increase such rates may be filed~~
434 ~~pursuant to subsection (4) utilizing the standards set forth~~
435 ~~therein. There shall be a flat-rate pricing option for multi-~~

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436 line business local exchange service, and mandatory measured
437 service for multi-line business local exchange service shall not
438 be imposed. ~~Nothing contained in This chapter does not section~~
439 ~~shall~~ prevent the local exchange telecommunications company from
440 meeting offerings by any competitive provider of the same, or
441 functionally equivalent, nonbasic services in a specific
442 geographic market or to a specific customer by deaveraging the
443 price of any nonbasic service, packaging nonbasic services
444 together or with basic services, using volume discounts and term
445 discounts, and offering individual contracts. However, the local
446 exchange telecommunications company may ~~shall~~ not engage in any
447 anticompetitive act or practice or, ~~nor~~ unreasonably
448 discriminate among similarly situated customers.

449 (b) The commission has ~~shall have~~ continuing regulatory
450 oversight of nonbasic services for purposes of ~~ensuring~~
451 ~~resolution of service complaints~~, preventing cross-subsidization
452 of nonbasic services with revenues from basic services, and
453 ensuring that all providers are treated fairly in the
454 telecommunications market. The price charged to a consumer for a
455 nonbasic service shall cover the direct costs of providing the
456 service. The cost standard for determining cross-subsidization
457 is whether the total revenue from a nonbasic service is less
458 than the total long-run incremental cost of the service. Total
459 long-run incremental cost means service-specific volume and
460 nonvolume-sensitive costs.

461 ~~(c) The price charged to a consumer for a nonbasic service~~
462 ~~shall cover the direct costs of providing the service and shall,~~
463 ~~to the extent a cost is not included in the direct cost, include~~
464 ~~as an imputed cost the price charged by the company to~~

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465 ~~competitors for any monopoly component used by a competitor in~~
466 ~~the provision of its same or functionally equivalent service.~~

467 Section 7. Section 364.08, Florida Statutes, is amended to
468 read:

469 364.08 Unlawful to charge other than schedule rates or
470 charges; free service and reduced rates prohibited.-

471 (1) A telecommunications company may not charge, demand,
472 collect, or receive for any service rendered or to be rendered
473 any compensation other than the charge applicable to such
474 service as specified in its schedule on file or otherwise
475 published and in effect at that time. A telecommunications
476 company may not ~~refund or remit, directly or indirectly, any~~
477 ~~portion of the rate or charge so specified or~~ extend to any
478 person any advantage of contract or agreement or the benefit of
479 any rule or regulation or any privilege or facility not
480 regularly and uniformly extended to all persons under like
481 circumstances for like or substantially similar service.

482 (2) A telecommunications company subject to this chapter
483 may provide ~~not, directly or indirectly, give any free or~~
484 ~~reduced service between points within this state. However, it~~
485 ~~shall be lawful for the commission to authorize employee~~
486 ~~concessions~~ without approval by the commission ~~if in the public~~
487 ~~interest.~~

488 Section 8. Section 364.09, Florida Statutes, is repealed.

489 Section 9. Subsection (3) of section 364.10, Florida
490 Statutes, is amended to read:

491 364.10 Undue advantage to person or locality prohibited;
492 Lifeline service.-

493 (3) (a) Each ~~Effective September 1, 2003, any~~ local exchange

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494 telecommunications company that has more than 1 million access
495 lines and that is designated as an eligible telecommunications
496 carrier ~~authorized by the commission to reduce its switched~~
497 ~~network access rate pursuant to s. 364.164 shall have tariffed~~
498 ~~and~~ shall provide Lifeline service to any otherwise eligible
499 customer or potential customer who meets an income eligibility
500 test at 150 ~~135~~ percent or less of the federal poverty income
501 guidelines for Lifeline customers. Such a test for eligibility
502 must augment, rather than replace, the eligibility standards
503 established by federal law and based on participation in certain
504 low-income assistance programs. Each intrastate interexchange
505 telecommunications company shall, ~~effective September 1, 2003,~~
506 file or publish a schedule ~~tariff~~ providing at a minimum the
507 intrastate interexchange telecommunications carrier's current
508 Lifeline benefits and exemptions to Lifeline customers who meet
509 the income eligibility test set forth in this subsection. The
510 Office of Public Counsel shall certify and maintain claims
511 submitted by a customer for eligibility under the income test
512 authorized by this subsection.

513 (b) Each eligible telecommunications carrier subject to
514 this subsection shall provide to each state and federal agency
515 providing benefits to persons eligible for Lifeline service
516 applications, brochures, pamphlets, or other materials that
517 inform the persons of their eligibility for Lifeline, and each
518 state agency providing the benefits shall furnish the materials
519 to affected persons at the time they apply for benefits.

520 (c) Any local exchange telecommunications company customer
521 receiving Lifeline benefits shall not be subject to any
522 residential basic local telecommunications service rate

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523 increases authorized by s. 364.164 until the local exchange
524 telecommunications company reaches parity as defined in s.
525 364.164(5) or until the customer no longer qualifies for the
526 Lifeline benefits established by this section or s. 364.105, or
527 unless otherwise determined by the commission upon petition by a
528 local exchange telecommunications company.

529 (d) An eligible telecommunications carrier may not
530 discontinue basic local exchange telephone service to a
531 subscriber who receives Lifeline service because of nonpayment
532 by the subscriber of charges for nonbasic services billed by the
533 telecommunications company, including long-distance service. A
534 subscriber who receives Lifeline service shall ~~be required to~~
535 pay all applicable basic local exchange service fees, including
536 the subscriber line charge, E-911, telephone relay system
537 charges, and applicable state and federal taxes.

538 (e) An eligible telecommunications carrier may not refuse
539 to connect, reconnect, or provide Lifeline service because of
540 unpaid toll charges or nonbasic charges other than basic local
541 exchange service.

542 (f) An eligible telecommunications carrier may require that
543 payment arrangements be made for outstanding debt associated
544 with basic local exchange service, subscriber line charges, E-
545 911, telephone relay system charges, and applicable state and
546 federal taxes.

547 (g) An eligible telecommunications carrier may block a
548 Lifeline service subscriber's access to all long-distance
549 service, except for toll-free numbers, and may block the ability
550 to accept collect calls when the subscriber owes an outstanding
551 amount for long-distance service or amounts resulting from

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552 collect calls. However, the eligible telecommunications carrier
553 may not impose a charge for blocking long-distance service. The
554 eligible telecommunications carrier shall remove the block at
555 the request of the subscriber without additional cost to the
556 subscriber upon payment of the outstanding amount. An eligible
557 telecommunications carrier may charge a service deposit before
558 removing the block.

559 (h)1. By December 31, 2007, each state agency that provides
560 benefits to persons eligible for Lifeline service shall
561 undertake, in cooperation with the Department of Children and
562 Family Services, the Department of Education, the commission,
563 the Office of Public Counsel, and telecommunications companies
564 providing Lifeline services, the development of procedures to
565 promote Lifeline participation.

566 2. If any state agency determines that a person is eligible
567 for Lifeline services, the agency shall immediately forward the
568 information to the commission to ensure that the person is
569 automatically enrolled in the program with the appropriate
570 eligible telecommunications carrier. The state agency shall
571 include an option for an eligible customer to choose not to
572 subscribe to the Lifeline service. The Public Service Commission
573 and the Department of Children and Family Services shall, no
574 later than December 31, 2007, adopt rules creating procedures to
575 automatically enroll eligible customers in Lifeline service.

576 3. The commission, the Department of Children and Family
577 Services, and the Office of Public Counsel shall enter into a
578 memorandum of understanding establishing the respective duties
579 of the commission, the department, and the public counsel with
580 respect to the automatic enrollment procedures no later than

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581 December 31, 2007.

582 (i) The commission shall report to the Governor, the
583 President of the Senate, and the Speaker of the House of
584 Representatives by December 31 each year on the number of
585 customers who are subscribing to Lifeline service and the
586 effectiveness of any procedures to promote participation.

587 (j) The commission shall adopt rules to administer this
588 section.

589 Section 10. Section 364.15, Florida Statutes, is amended to
590 read:

591 364.15 Compelling repairs, improvements, changes,
592 additions, or extensions.—Whenever the commission finds, on its
593 own motion or upon complaint, that repairs or improvements to,
594 or changes in, any telecommunications facility ought reasonably
595 to be made, or that any additions or extensions should
596 reasonably be made to any telecommunications facility, in order
597 to promote the security or convenience of the public or
598 employees or in order to secure adequate service or facilities
599 for basic local telecommunications services consistent with the
600 requirements set forth in this chapter, the commission shall
601 make and serve an order directing that such repairs,
602 improvements, changes, additions, or extensions be made in the
603 manner to be specified in the order. This section authorizes the
604 commission to impose only those requirements that it is
605 otherwise authorized to impose under this chapter.

606 Section 11. Section 364.33, Florida Statutes, is amended to
607 read:

608 364.33 Certificate of necessity prerequisite to
609 construction, operation, or control of telecommunications

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610 facilities.—Except for a transfer of a certificate of necessity
611 from one person to another or to the parent or affiliate of a
612 certificated person as provided in this section, a person may
613 not begin the construction or operation of any
614 telecommunications facility, or any extension thereof for the
615 purpose of providing telecommunications services to the public,
616 or acquire ownership or control thereof, in whatever manner,
617 including the acquisition, transfer, or assignment of majority
618 organizational control or controlling stock ownership, without
619 prior approval. A certificate of necessity or control thereof
620 may be transferred from a person holding a certificate, its
621 parent or an affiliate to another person holding a certificate,
622 its parent or an affiliate and a person holding a certificate,
623 its parent or an affiliate may acquire ownership or control of a
624 telecommunications facility through the acquisition, transfer,
625 or assignment of majority organizational control or controlling
626 stock ownership of a person holding a certificate without prior
627 approval of the commission by giving 60 days' written notice of
628 the transfer or change of control to the commission and affected
629 customers. This section does not require approval by the
630 commission prior to the construction, operation, or extension of
631 a facility by a certificated company within its certificated
632 area nor in any way limit the commission's ability to review the
633 prudence of such construction programs for ratemaking as
634 provided under this chapter.

635 Section 12. Subsection (4) of section 364.335, Florida
636 Statutes, is amended to read:

637 364.335 Application for certificate.—

638 (4) Except as provided in s. 364.33, revocation,

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639 suspension, transfer, or amendment of a certificate shall be
640 subject to the provisions of this section; except that, when the
641 commission initiates the action, the commission shall furnish
642 notice to the appropriate local government and to the Public
643 Counsel.

644 Section 13. Section 364.3376, Florida Statutes, is amended
645 to read:

646 364.3376 Operator services.—

647 (1) (a) A person may not provide operator services as
648 defined in s. 364.02 without first obtaining from the commission
649 a certificate of public convenience and necessity as an operator
650 services provider.

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

655 ~~(2) Notwithstanding any finding by the commission that a~~
656 ~~service or facility is subject to competition and should be~~
657 ~~regulated pursuant to s. 364.338, All intrastate operator~~
658 ~~service providers are subject to the jurisdiction of the~~
659 ~~commission and shall render operator services pursuant to~~
660 ~~schedules in accordance with s. 364.04 tariffs approved by the~~
661 ~~commission.~~

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

665 (3)~~(4)~~ Operator service providers shall:

666 (a) Require operators to:

667 1. Clearly identify the operator service provider to all

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668 end users before the call is made.

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

670 3. When requested, provide the number to call for
671 complaints and inquiries.

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

674 (b) Not intentionally charge for incompletd calls and
675 provide full refund or credit for any misbilled or incomplete
676 calls.

677 (c) Bill for services in accordance with their published
678 schedules approved in their tariff and only at the rates set
679 forth therein tariff or otherwise approved rate, and disclose
680 their names on bills which include charges for services
681 rendered.

682 (4)~~(5)~~ Each call aggregator shall post in the immediate
683 vicinity of each telephone available to the public the name of
684 the operator service provider, a toll-free customer service
685 number, a statement that rate quotes are available upon request,
686 and instructions on how the end user may access other operator
687 service providers and such other information determined by the
688 commission to be necessary in the public interest.

689 (5)~~(6)~~ Neither the operator service provider nor the call
690 aggregator shall block or prevent an end user's access to the
691 end user's operator service provider of choice, except that the
692 commission shall grant limited waivers to operator service
693 providers or call aggregators upon a showing that such waiver is
694 in the public interest.

695 (6)~~(7)~~ The local exchange telecommunications company shall
696 not disconnect local service for properly contested nonpayment

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697 of any operator services bill.

698 ~~(7)(8)~~ The commission shall adopt and enforce requirements
699 for the provision of services by operator services companies and
700 call aggregators.

701 ~~(8)(9)~~ Operator service providers and local exchange
702 companies providing billing and collection services shall ~~only~~
703 bill and collect only the ~~tariffed~~ rates and charges set forth
704 in the applicable schedules.

705 ~~(9)(10) Notwithstanding any finding by the commission that~~
706 ~~a service or facility is subject to competition and should be~~
707 ~~regulated pursuant to s. 364.338, A local exchange~~
708 telecommunications company may ~~shall~~ not perform billing and
709 collection functions relating to regulated telecommunications
710 services provided by an operator services provider unless the
711 operator services provider has filed a statement with the local
712 exchange telecommunications company signed by a corporate
713 officer, or by another authorized person having personal
714 knowledge, that all regulated telecommunications services to be
715 billed will ~~shall~~ be rendered pursuant to applicable published
716 schedules ~~tariffs approved by the commission~~.

717 ~~(10)(11)~~ The commission shall conduct ~~have the~~
718 ~~responsibility for conducting~~ an effective program of random,
719 no-notice compliance investigations of the operator services
720 providers and call aggregators operating within the state. When
721 the commission finds a blocking violation, it shall determine
722 whether the blocking is the responsibility of the call
723 aggregator or the operator services provider and may fine the
724 responsible party in accordance with s. 364.285. Upon the
725 failure of the responsible party to correct a violation within a

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726 mandatory time limit established by the commission or upon a
727 proven pattern of intentional blocking, the commission shall
728 order the discontinuance of the call aggregator's telephone
729 service or revoke the operator services provider's certificate,
730 as applicable.

731 Section 14. Section 364.3382, Florida Statutes, is amended
732 to read:

733 364.3382 Disclosure.—

734 ~~(1)~~ A local exchange telecommunications company, when a
735 residential customer initially requests service, shall advise
736 each residential customer of the least-cost service available to
737 that customer. ~~Annually, in the form of a bill insert,~~ the local
738 exchange telecommunications company shall advise each
739 residential customer of the price of each service option
740 selected by that customer. The requirement of an annual notice
741 ~~through a bill insert~~ does not apply to interexchange service.

742 ~~(2) Copies of both the written notices and information~~
743 ~~provided to customer service representatives concerning the~~
744 ~~disclosure required pursuant to subsection (1) shall be~~
745 ~~submitted to the commission for prior approval.~~

746 Section 15. Subsection (2) of section 364.345, Florida
747 Statutes, is amended to read:

748 364.345 Certificates; territory served; transfer.—

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

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

754 (b) The approval of the commission.

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755 Section 16. Section 364.603, Florida Statutes, is amended
756 to read:

757 364.603 Methodology for changing telecommunications
758 provider.—The commission shall adopt rules to prevent the
759 unauthorized changing of a subscriber's telecommunications
760 service. Such rules shall be consistent with the
761 Telecommunications Act of 1996, provide for specific
762 verification methodologies, provide for the notification to
763 subscribers of the ability to freeze the subscriber's choice of
764 carriers at no charge, allow for a subscriber's change to be
765 considered valid if verification was performed consistent with
766 the commission's rules, provide for remedies for violations of
767 the rules, and allow for the imposition of other penalties
768 available in this chapter. The commission shall resolve on an
769 expedited basis any complaints of anticompetitive behavior
770 concerning a local preferred carrier freeze. The
771 telecommunications company that is asserting the existence of a
772 local preferred carrier freeze, which is the subject of the
773 complaint, shall have the burden of proving through competent
774 evidence that the customer did in fact request the freeze.

775 Section 17. Paragraph (a) of subsection (1) of section
776 364.059, Florida Statutes, is amended to read:

777 364.059 Procedures for seeking stay; benchmark; criteria.—

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

782 (a) Any petition filed by a substantially interested party
783 against a local exchange telecommunications company seeking a

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784 stay of the effective date of a price reduction for a basic
785 local telecommunications service, alleging an anticompetitive
786 price reduction pursuant to s. 364.051(5), s. 364.08, ~~s. 364.09,~~
787 s. 364.10, or s. 364.3381, shall be resolved by the commission
788 pursuant to this section and by an order issued within 45 days
789 after the date the petition is filed.

790 Section 18. Section 364.105, Florida Statutes, is amended
791 to read:

792 364.105 Discounted rate for basic service for former
793 Lifeline subscribers.—Each local exchange telecommunications
794 company shall offer discounted residential basic local
795 telecommunications service at 70 percent of the residential
796 local telecommunications service rate for any Lifeline
797 subscriber who no longer qualifies for Lifeline. A Lifeline
798 subscriber who requests such service shall receive the
799 discounted price for a period of 1 year after the date the
800 subscriber ceases to be qualified for Lifeline. In no event
801 shall this preclude the offering of any other discounted
802 services which comply with ss. 364.08, ~~364.09,~~ and 364.10.

803 Section 19. This act shall take effect July 1, 2009.