

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 478

INTRODUCER: Regulated Industries Committee and Senator Rodriguez

SUBJECT: Designation of Eligible Telecommunications Carriers

DATE: January 23, 2024 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schrader</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Harmsen</u>	<u>McVaney</u>	<u>GO</u>	<u>Favorable</u>
3.	<u>Schrader</u>	<u>Twogood</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 478 amends s. 364.10, F.S., to grant authority to the Florida Public Service Commission (PSC) to designate mobile phone service providers as eligible telecommunications carriers (ETCs) under the federal Lifeline program (Lifeline).

Lifeline provides telecommunications service discounts for qualifying low-income consumers. Qualifying households can receive a discount on their monthly phone or broadband Internet bills from providers that have been designated as ETCs.

The bill is not expected to impact state or local government revenues and expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida Public Service Commission

The Public Service Commission (PSC) is an arm of the legislative branch of government.¹ The role of the PSC is to ensure that Florida’s consumers receive utility services, including electric,

¹ Section 350.001, F.S.

natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.² In order to do so, the PSC exercises authority over public utilities in the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.³

Telecommunications Carriers

Under ch. 364, F.S., telecommunications carriers in Florida are subject to limited PSC regulation. Telecommunications companies are defined to include every corporation, partnership, and person and their lessees, trustees, or receivers appointed by any court, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within the state by the use of a telecommunications facility.⁴ The term *does not* include:

- Entities that provide a telecommunications facility exclusively to a certificated telecommunications company;
- Entities that provide a telecommunications facility exclusively to a company which is excluded from the definition of a telecommunications company under this subsection;
- Commercial mobile radio service providers (mobile phone service provided for profit and to the public);⁵
- Facsimile transmission services;
- Private computer data network companies not offering service to the public for hire;
- Cable television companies providing cable service as defined in 47 U.S.C. s. 522;
- Intrastate interexchange telecommunications companies;
- Operator services providers; and
- Airports that provide communications services within the confines of their airport layout plan.

In addition, s. 364.011, F.S., exempts the following services from PSC jurisdiction, unless otherwise specifically provided in ch. 364, F.S.:

- Intrastate interexchange telecommunications services;
- Broadband services, regardless of the provider, platform, or protocol;
- Voice over Internet Protocol (VoIP);
- Wireless telecommunications, including commercial mobile radio service providers;
- Basic service; and
- Nonbasic services or comparable services offered by any telecommunications company.

² See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Jan. 7, 2024).

³ Florida Public Service Commission, *About the PSC: Overview and Key Facts*, <https://www.psc.state.fl.us/about> (last visited Jan. 7, 2024).

⁴ Section 364.02(13), F.S.

⁵ See 47 U.S.C. ss. 153(27) and 332(d) (2009). The definition of “commercial mobile radio service provider” in s. 364.02(3), F.S., was created in 2009 and references the definition of “mobile service” at 47 U.S.C. ss. 153(27) as it existed in the U.S. Code at that time (*see* ch. 2009-226, Laws of Fla.). 47 U.S.C. s. 153 has been subsequently amended twice, and, although the definition of “mobile service” has not changed, the new, current location for this definition is 47 U.S.C. ss. 153(33). 47 U.S.C. s. 332 has also been amended since ch. 2009-226, Laws of Fla., however the only changes to the relevant portion of that section (47 U.S.C. s. 332(d)) were technical (eliminating the unnecessary phrase “of this section” from 47 U.S.C. s. 332(d)(2)).

Florida's Regulatory Reform Act became law on July 1, 2011.⁶ Under the Regulatory Reform Act, the Legislature eliminated most of the PSC's jurisdiction over telecommunications. However, the PSC still:

- Maintains the authority to ensure that incumbent local exchange carriers meet their obligation to provide unbundled access, interconnection, and resale to competitive local exchange companies in a nondiscriminatory manner;
- Administers the system to provide Telecommunications Relay Services; and
- Oversees the Federal Lifeline program for Florida.⁷

Federal Universal Service Programs

Universal Service is both the name of a fund (Universal Service Fund or USF) and a category of Federal Communications Commission (FCC) programs designed to implement the principle that "all Americans should have access to communications service."⁸ The FCC has established four programs within the USF:

- Connect America Fund (formally known as High-Cost Support) for rural areas;
- Lifeline (for low-income consumers), including initiatives to expand phone service for residents of Tribal lands;
- Schools and Libraries (E-rate); and
- Rural Health Care.⁹

The Universal Service Administrative Company administers the four USF programs and collects assessments from telecommunications providers under the direction of the FCC.¹⁰ The assessments are based upon such providers' interstate and inter-nation end-user revenues. Entities that contribute to the fund include:

- Telecommunications carriers, including wireline and wireless companies; and
- Interconnected VoIP providers, including cable companies that provide voice service.¹¹

Connect America Fund

The Connect America Fund is designed to "ensure that consumers in rural, insular, and high-cost areas have access to modern communications networks capable of providing voice and broadband service, both fixed and mobile, at rates that are reasonably comparable to those in urban areas." This is accomplished by allowing eligible telecommunications carriers (ETCs) serving eligible areas to recover some of the expense of high-cost service from the USF instead of from ratepayers.¹²

⁶ Ch. 2011-36, Laws of Fla.

⁷ Florida Public Service Commission, *About the PSC*, *supra* note 3.

⁸ Federal Communications Commission, *Universal Service*, <https://www.fcc.gov/general/universal-service> (last visited Jan. 7, 2024).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Federal Communications Commission, *Universal Service for High Cost Areas - Connect America Fund*, <https://www.fcc.gov/general/universal-service-high-cost-areas-connect-america-fund> (last visited Jan. 7, 2024).

Lifeline Program for Low-Income Consumers

The Lifeline program was established in 1985 to provide discounts on phone service for qualifying low-income consumers. The program is available to eligible low-income consumers in every state, territory, commonwealth, and on tribal lands.¹³

In 2016, the FCC adopted, by order, a comprehensive reform and modernization of the Lifeline program.¹⁴ The order, in part, revised the Lifeline program to:

- Allow Lifeline subscribers to apply the \$9.25 monthly Lifeline discount to broadband and broadband-voice bundled service (from a designated ETC);
- Set minimum service standards for Lifeline-supported service; and
- Establish the National Verifier as a neutral third party to make program eligibility decisions.¹⁵

As currently administered, the Lifeline program is intended to enable low-income households to obtain and maintain basic telephone and broadband services through monthly bill discounts for qualifying households. Alternatively, qualifying low-income consumers can choose to receive monthly wireless minutes or measured data service from wireless ETCs.¹⁶

Consumers may qualify to participate in Lifeline either through program-based or income-based eligibility standards. Program-based eligibility is determined by a customer's enrollment in at least of one the following programs:¹⁷

- Supplemental Nutrition Assistance Program (SNAP);
- Medicaid;
- Federal Public Housing Assistance;
- Supplemental Security Income;
- Veterans or Survivors Pension Program; or
- Bureau of Indian Affairs Programs, including Tribal Temporary Assistance to Needy Families, Head Start Subsidy, and National School Lunch Program.

Consumers whose total household income is less than 135 percent of the Federal Poverty Guidelines may participate in Lifeline under the income-based standard.¹⁸

As of June 30, 2023, there were 300,229 Florida households that used the Lifeline Program.¹⁹

¹³ Federal Communications Commission, *Lifeline Program for Low-Income Consumers*, <https://www.fcc.gov/general/lifeline-program-low-income-consumers> (last visited Jan. 7, 2024).

¹⁴ *Id.* and *In the Matter of Lifeline & Link Up Reform & Modernization*, 31 F.C.C. Rcd. 3962 (2016), available at <https://docs.fcc.gov/public/attachments/FCC-16-38A1.pdf> (last visited Jan. 7, 2024).

¹⁵ Universal Service Administrative Co., *Orders*, <https://www.usac.org/lifeline/rules-and-requirements/orders/#:~:text=In%20April%202016%2C%20the%20FCC,third%20party%20to%20make%20program> (last visited Jan. 7, 2024).

¹⁶ Florida Public Service Commission, *Agency Bill Analysis for SB 478*, Dec. 6, 2023 (on file with the Senate Regulated Industries Committee).

¹⁷ Public Service Commission (PSC), *2023 Florida Lifeline Assistance Report*, 3 (Dec. 2023), <https://www.floridapsc.com/pscfiles/website-files/PDF/Publications/Reports/Telecommunication/LifelineReport/2023.pdf> (last visited Jan. 7, 2024).

¹⁸ *Id.* at 3.

¹⁹ *Id.* at 1.

Eligible Telecommunications Carriers

To participate in the Lifeline program, telecommunications providers must first be designated as an ETC by either their state regulatory commission or the FCC, if the telecommunications company is not regulated by a state regulatory commission.²⁰

Chapter 364, F.S., grants the PSC authority over telecommunications carriers and the authority to designate such carriers as ETCs pursuant to 47 U.S.C. 214(e). Though s. 364.011, F.S., exempts wireless telecommunications from PSC jurisdiction, the PSC was previously able to designate wireless telecommunications providers as ETCs due to a provision that allowed for PSC jurisdiction where “specifically authorized by federal law.”²¹ The 2011 Regulatory Reform Act, however, removed this provision;²² and, thus, the PSC lost its jurisdiction to grant ETC status to wireless carriers and the authority to grant such status reverted to the FCC.²³

There are currently 17 ETCs that offer Lifeline service in some portion of Florida. The most recent ETC designations were approved between 2019 and 2022.²⁴

As of 2020, according to the PSC, four companies with authorization to do business in the state of Florida have filed or amended existing petitions with the FCC for ETC designation:

- Dish Wireless;
- Easy Wireless;
- Global Connections; and
- Sage Telecom.²⁵

The FTC has not approved these petitions at this time.

The FCC currently has two types of ETC designations. One for the Connect America Fund, which also requires the carrier to participate in the Lifeline program.²⁶ The other type of ETC designation is for the Lifeline program only.²⁷

III. Effect of Proposed Changes:

The bill amends s. 364.10, F.S., to expand the entities that the PSC may designate as ETCs for the limited purpose of providing Lifeline service to include:

²⁰ *Id.*, Universal Service Administrative Co., *Join Lifeline as an ETC*, [https://www.usac.org/lifeline/get-started/join-lifeline-as-an-etc/#:~:text=Eligible%20telecommunications%20carriers%20\(ETCs%2C%20or.the%20federal%20universal%20service%20fund](https://www.usac.org/lifeline/get-started/join-lifeline-as-an-etc/#:~:text=Eligible%20telecommunications%20carriers%20(ETCs%2C%20or.the%20federal%20universal%20service%20fund) (last visited Jan. 7, 2024), and 47 U.S.C. 214(e).

²¹ Florida Public Service Commission, *Agency Bill Analysis for SB 478*, *supra* note 16.

²² Ch. 2011-36, s. 3, Laws of Fla.

²³ Florida Public Service Commission, *Agency Bill Analysis for SB 478*, *supra* note 16.

²⁴ *2023 Florida Lifeline Assistance Report*, *supra* note 17 at 16-17.

²⁵ Florida Public Service Commission, *Agency Bill Analysis for SB 478*, *supra* note 16.

²⁶ *Id.* However, in *In the Matter of Lifeline & Link Up Reform & Modernization*, 31 F.C.C., Rcd. 3962, paras. 335-60 (2016), the FCC provided conditional forbearance from Lifeline voice service requirements where (a) 51 percent of Lifeline subscribers in a county are obtaining Lifeline broadband Internet access service; (b) there are at least three other providers of Lifeline BIAS that each serve at least five percent of the Lifeline broadband subscribers in that county; and (c) the ETC does not actually receive federal high-cost universal service support.

²⁷ Florida Public Service Commission, *Agency Bill Analysis for SB 478*, *supra* note 16.

- Telecommunications companies; and
- Commercial mobile radio service providers (i.e. mobile phone service providers).²⁸

This change maintains the PSC's current ability to grant Lifeline program ETC status to telecommunications companies currently under its jurisdiction, pursuant to 47 U.S.C. 214(e). The bill grants authority to the PSC to grant ETC status, for the sole purpose of providing Lifeline service, to commercial mobile radio service providers, pursuant to 47 U.S.C. 214(e). These providers are currently exempt from the PSC's jurisdiction and will continue to hold that exemption except for determination as an ETC for participation in the Lifeline service.

Mobile phone service providers that wish to participate in the Connect America (i.e. High-Cost Support) program will still need to petition the FCC for ETC designation for that program. Additionally, providers that use other technologies that are exempt from the PSC's jurisdiction, such as satellite or Voice over Internet Protocol, would continue to require ETC designation from the FCC to participate in the Lifeline or Connect America programs.²⁹

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

²⁸ Provided that such service is offered for profit and to the public.

²⁹ *Id.*

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill may reduce the amount of time it takes for a mobile phone service provider to obtain ETC status for the Lifeline program. This bill does not alter the pool of eligible consumers, nor will the fees charged to consumers for Lifeline service change.

C. Government Sector Impact:

The PSC has not identified any fiscal impact in regards to its own revenues or expenditures.³⁰ However, the PSC may experience additional workload if the providers petition for designation as an ETC. This additional workload should be absorbed within current resources of the PSC.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill uses the term “commercial mobile radio service provider,” which is defined in s. 364.02(3), F.S., as “a commercial mobile radio service provider as defined by and pursuant to 47 U.S.C. ss. 153(27) and 332(d).” This federal citation is out of date, but the definition remains the same. The bill sponsor may wish to update the definition’s citation in s. 364.02(3), F.S., to “a commercial mobile radio service provider as defined by and pursuant to 47 U.S.C. ss. 153(33) and 332(d)” to reflect the current federal citation.

VIII. Statutes Affected:

This bill substantially amends section 364.10 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Regulated Industries on December 13, 2023**

The committee substitute deletes intent language in the bill that reiterated existing Florida Public Service Commission authority to enforce the provisions of Chapter 364, F.S.

³⁰ Florida Public Service Commission, *Agency Bill Analysis for SB 478*, *supra* note 16.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
