

Committee Substitute for
Committee Substitute for Senate Bill No. 2626

An act relating to telecommunications companies; creating the “Consumer Choice and Protection Act”; providing legislative findings and intent; authorizing the Department of Management Services to engage in certain activities related to assessing the need for broadband Internet service in the state, planning for such service, and encouraging the statewide deployment of such service; authorizing the department to apply for and accept certain funds; authorizing the department to enter into contracts; authorizing the department to establish committees or workgroups; authorizing the department to adopt rules; amending s. 364.013, F.S.; providing for local interconnection rights regardless of technology; amending s. 364.02, F.S.; redefining the terms “basic local telecommunications service,” “non-basic service,” and “telecommunications company”; amending s. 364.04, F.S.; requiring each telecommunications company to publish through electronic or physical media the company’s schedules showing its rates, tolls, rentals, contracts, and charges; authorizing a telecommunications company to file the published schedules with the Public Service Commission or to publish the schedules through other reasonably publicly accessible means, including on a website; deleting standards for printing schedules and notices; amending s. 364.051, F.S.; removing a limitation on eligibility to request an increase in basic rates due to storm damage; providing that the price for any service that was treated as basic service before a specified date may not be increased by more than the amount allowed for basic service; deleting provisions relating to rate increases for non-basic services; amending s. 364.08, F.S.; prohibiting a telecommunications company from charging or receiving compensation for any service other than for the charge applicable to the service as specified in its schedule on file or otherwise published; providing an exception for employee concessions; repealing s. 364.09, F.S., relating to the illegal giving of rebates or special rates by a telecommunications company; amending s. 364.10, F.S.; providing the conditions that require a telecommunications carrier to provide Lifeline services to eligible customers; amending s. 364.15, F.S.; requiring that the Public Service Commission order only those repairs and improvements to telecommunications facilities which are authorized under law; amending s. 364.33, F.S.; providing that a certificate of necessity may be transferred from a person holding a certificate to another, and a person holding a certificate may acquire ownership or control of a telecommunications facility without prior approval of the commission; amending ss. 364.335 and 364.345, F.S.; conforming provisions to changes made in the act; amending s. 364.3376, F.S.; requiring providers of telephone operator services to comply with certain enumerated criteria; requiring the operator services to bill for services in accordance with published schedules; amending s. 364.3382, F.S.; deleting the requirement that each local exchange

telecommunications company submit to the Public Service Commission copies of the written notices and information concerning basic service for prior approval; amending s. 364.603, F.S.; providing procedures for resolving complaints regarding preferred carrier freezes on local exchange service; amending ss. 364.059 and 364.105, F.S.; conforming cross-references; providing an effective date.

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

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

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

(2) The Department of Management Services is authorized to work collaboratively with, and to receive staffing support and other resources from, Enterprise Florida, Inc., state agencies, local governments, private businesses, and community organizations to:

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The department is authorized to establish any committee or work-group to administer and carry out the purposes of this section.

(6) The department is authorized to adopt rules necessary to carry out the purposes of this section, including, without limitation, the authority to establish definitions of terms pertinent to this section.

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

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

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

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

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

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

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

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

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

(3) “Commercial mobile radio service provider” means a commercial mobile radio service provider as defined by and pursuant to 47 U.S.C. ss. 153(27)(~~h~~) and 332(d).

(4) “Commission” means the Florida Public Service Commission.

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

(6) “Corporation” includes a corporation, company, association, or joint stock association.

(7) “Intrastate interexchange telecommunications company” means any entity that provides intrastate interexchange telecommunications services.

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

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

(10) “Nonbasic service” means any telecommunications service provided by a local exchange telecommunications company other than a basic local telecommunications service, a local interconnection arrangement described in s. 364.16, or a network access service described in s. 364.163. Any combi-

nation of basic service along with a nonbasic service or an unregulated service is nonbasic service.

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

(12) “Operator service provider” means a person who furnishes operator service through a call aggregator.

(13) “Service” is to be construed in its broadest and most inclusive sense. The term “service” does not include broadband service or voice-over-Internet protocol service for purposes of regulation by the commission. Nothing herein shall affect the rights and obligations of any entity related to the payment of switched network access rates or other intercarrier compensation, if any, related to voice-over-Internet protocol service. Notwithstanding s. 364.013, and the exemption of services pursuant to this subsection, the commission may arbitrate, enforce, or approve interconnection agreements, and resolve disputes as provided by 47 U.S.C. ss. 251 and 252, or any other applicable federal law or regulation. With respect to the services exempted in this subsection, regardless of the technology, the duties of a local exchange telecommunications company are only those that the company is obligated to extend or provide under applicable federal law and regulations.

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

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

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

(c) A commercial mobile radio service provider;

(d) A facsimile transmission service;

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

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

(g) An intrastate interexchange telecommunications company.

However, each commercial mobile radio service provider and each intrastate interexchange telecommunications company shall continue to be liable for any taxes imposed under chapters 202, 203, and 212 and any fees assessed

under s. 364.025. Each intrastate interexchange telecommunications company shall continue to be subject to ss. 364.04, 364.10(3)(a) and (d), 364.163, 364.285, 364.336, 364.501, 364.603, and 364.604, shall provide the commission with the current information as the commission deems necessary to contact and communicate with the company, and shall continue to pay intrastate switched network access rates or other intercarrier compensation to the local exchange telecommunications company or the competitive local exchange telecommunications company for the origination and termination of interexchange telecommunications service, ~~and shall reduce its intrastate long distance toll rates in accordance with former s. 364.163(2).~~

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

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

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

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

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

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

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

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

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

364.051 Price regulation.—

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

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

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

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

(4)

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

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

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

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

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

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

6. The commission may order the company to add an equal line-item charge per access line to the billing statement of the company's retail basic

local telecommunications service customers, its retail nonbasic telecommunications service customers, and, to the extent the commission determines appropriate, its wholesale loop unbundled network element customers. At the end of the collection period, the commission shall verify that the collected amount does not exceed the amount authorized by the order. If collections exceed the ordered amount, the commission shall order the company to refund the excess.

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

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

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

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

(a) ~~Each company subject to this section shall, at its option, maintain tariffs with the commission or otherwise publicly publish the terms, conditions, and rates for each of its nonbasic services, and may set or change, on 1 day's notice, the rate for each of its nonbasic services. For a company electing to publicly publish the terms, conditions, and rates for each of its nonbasic services, the commission may establish guidelines for the publication. The guidelines may not require more information than what is required to be filed with a tariff. The price increase for any nonbasic service category shall not exceed 6 percent within a 12-month period until there is another provider providing local telecommunications service in an exchange area at which time the price for any nonbasic service category may be increased in an amount not to exceed 10 20 percent within a 12-month period, and the rate shall be presumptively valid. However, the price for any service that was treated as basic service before July 1, 2009, may not be increased by more than the amount allowed for basic service as provided in paragraph (2)(c) and subsection (3). However, for purposes of this subsection, the prices of:~~

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

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

shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to January 1, 2000; provided, however, that a petition to increase such rates may be filed pursuant to subsection (4) utilizing the standards set forth therein. There shall be a flat-rate pricing option for multi-line business local exchange service, and mandatory measured service for multi-line business local exchange service shall not be imposed. ~~Nothing contained in This chapter does not~~ section shall prevent the local exchange telecommunications company from meeting offerings by any competitive provider of the same, or functionally equivalent, nonbasic services in a specific geographic market or to a specific customer by deaveraging the price of any nonbasic service, packaging nonbasic services together or with basic services, using volume discounts and term discounts, and offering individual contracts. However, the local exchange telecommunications company may ~~shall~~ not engage in any anticompetitive act or practice or, ~~nor~~ unreasonably discriminate among similarly situated customers.

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

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

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

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

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

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

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

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

364.10 Undue advantage to person or locality prohibited; Lifeline service.—

(3)(a) ~~Each Effective September 1, 2003, any local exchange telecommunications company that has more than 1 million access lines and that is designated as an eligible telecommunications carrier authorized by the commission to reduce its switched network access rate pursuant to s. 364.164 shall have tarified and~~ shall provide Lifeline service to any otherwise eligible customer or potential customer who meets an income eligibility test at 150 ~~135~~ percent or less of the federal poverty income guidelines for Lifeline customers. Such a test for eligibility must augment, rather than replace, the eligibility standards established by federal law and based on participation in certain low-income assistance programs. Each intrastate interexchange telecommunications company shall, ~~effective September 1, 2003, file or publish a schedule tariff providing at a minimum the intrastate interexchange telecommunications carrier's current Lifeline benefits and exemptions to Lifeline customers who meet the income eligibility test set forth in this subsection.~~ The Office of Public Counsel shall certify and maintain claims submitted by a customer for eligibility under the income test authorized by this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

364.15 Compelling repairs, improvements, changes, additions, or extensions.—Whenever the commission finds, on its own motion or upon complaint, that repairs or improvements to, or changes in, any telecommunications facility ought reasonably to be made, or that any additions or extensions should reasonably be made to any telecommunications facility, in

order to promote the security or convenience of the public or employees or in order to secure adequate service or facilities for basic local telecommunications services consistent with the requirements set forth in this chapter, the commission shall make and serve an order directing that such repairs, improvements, changes, additions, or extensions be made in the manner to be specified in the order. This section authorizes the commission to impose only those requirements that it is otherwise authorized to impose under this chapter.

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

364.33 Certificate of necessity prerequisite to construction, operation, or control of telecommunications facilities.—Except for a transfer of a certificate of necessity from one person to another or to the parent or affiliate of a certificated person as provided in this section, a person may not begin the construction or operation of any telecommunications facility, or any extension thereof for the purpose of providing telecommunications services to the public, or acquire ownership or control thereof, in whatever manner, including the acquisition, transfer, or assignment of majority organizational control or controlling stock ownership, without prior approval. A certificate of necessity or control thereof may be transferred from a person holding a certificate, its parent or an affiliate to another person holding a certificate, its parent or an affiliate and a person holding a certificate, its parent or an affiliate may acquire ownership or control of a telecommunications facility through the acquisition, transfer, or assignment of majority organizational control or controlling stock ownership of a person holding a certificate without prior approval of the commission by giving 60 days' written notice of the transfer or change of control to the commission and affected customers. This section does not require approval by the commission prior to the construction, operation, or extension of a facility by a certificated company within its certificated area nor in any way limit the commission's ability to review the prudence of such construction programs for ratemaking as provided under this chapter.

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

364.335 Application for certificate.—

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

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

364.3376 Operator services.—

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

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

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

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

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

(a) Require operators to:

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

2. When requested, provide rate and service information.

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

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

(b) Not intentionally charge for incompleting calls and provide full refund or credit for any misbilled or incomplete calls.

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

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

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

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

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

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

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

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

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

364.3382 Disclosure.—

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

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

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

364.345 Certificates; territory served; transfer.—

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

- (a) A determination by the commission that the proposed sale, assignment, or transfer is in the public interest; and
- (b) The approval of the commission.

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

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

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

364.059 Procedures for seeking stay; benchmark; criteria.—

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

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

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

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

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

Approved by the Governor June 24, 2009.

Filed in Office Secretary of State June 24, 2009.