

CHAPTER 2011-36

Committee Substitute for Committee Substitute for House Bill No. 1231

An act relating to telecommunications; creating the “Regulatory Reform Act”; amending s. 364.01, F.S.; revising legislative intent with respect to the jurisdiction of the Florida Public Service Commission; amending s. 364.011, F.S.; providing that certain basic and nonbasic telecommunication services are exempt from the jurisdiction of the Public Service Commission; amending s. 364.012, F.S.; requiring local exchange telecommunications companies to provide unbundled access to network elements; amending s. 364.0135, F.S.; providing legislative intent relating to the sustainable adoption of broadband Internet service; providing a definition of “sustainable adoption” as it relates to broadband Internet services; removing obsolete legislative intent; authorizing the Department of Management Services 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 encourage sustainable adoption of broadband Internet services; authorizing the department to adopt rules; amending s. 364.02, F.S.; removing the definition of the term “monopoly service”; revising the definitions of the terms “basic local telecommunications service” and “nonbasic service”; excluding an operator service provider from the meaning of the term “telecommunications company”; revising the definition of the term “VoIP”; repealing ss. 364.025, 364.0251, and 364.0252, F.S., relating to uniform telecommunications service, a telecommunications consumer information program, and the expansion of consumer information programs, respectively; amending s. 364.04, F.S.; providing that the commission has no jurisdiction over the content, form, or format of rate schedules published by a telecommunications company; providing that a telecommunications company may undertake certain activities; repealing ss. 364.051, 364.052, 364.057, 364.058, 364.059, 364.06, 364.063, 364.07, and 364.08, F.S., relating to price regulation, regulatory methods for small local exchange telecommunications companies, experimental and transitional rates, limited proceedings, procedures for seeking a stay of proceedings, joint rates, tolls, and contracts, rate adjustment orders, intrastate interexchange service contracts, and unlawful charges against consumers, respectively; amending s. 364.10, F.S.; removing obsolete provisions; requiring an eligible telecommunications carrier to provide a Lifeline Assistance Plan to qualified residential subscribers; authorizing the commission to undertake certain consumer education measures; repealing s. 364.15, F.S., relating to repairs, improvements, and additions to telecommunication facilities; amending s. 364.16, F.S., relating to interconnection, unbundling, and resale of telecommunication services; requiring the commission to, upon request, arbitrate and enforce interconnection agreements; prohibiting a telecommunications company from knowingly delivering traffic for which terminating access service charges

would otherwise apply; authorizing the commission to adopt rules to prevent the unauthorized changing of a subscriber's telecommunications service; removing obsolete provisions relating to local exchange telecommunications companies; repealing ss. 364.161 and 364.162, F.S., relating to unbundling and resale of telecommunication services and negotiated prices for interconnection services, respectively; amending s. 364.163, F.S.; conforming provisions to changes made by the act; amending s. 364.183, F.S.; revising provisions relating to access of the commission to certain records of a telecommunications company; repealing ss. 364.185, 364.19, and 364.27, F.S., relating to powers of the commission to investigate and inspect any premises of a telecommunications company, regulation of telecommunication contracts, and powers and duties as to interstate rates, respectively; amending s. 364.33, F.S., relating to the certificate of authority; prohibiting a person from providing any telecommunications service to the public without a certificate of necessity or a certificate of authority issued by the commission; providing that, after a specified date, the commission will no longer issue certificates of necessity; amending s. 364.335, F.S.; requiring an applicant to provide certain information when applying for a certificate of authority; describing the criteria necessary to be granted a certificate of authority; authorizing a telecommunications company to terminate a certificate of authority; amending s. 364.336, F.S.; requiring the commission to initiate rulemaking to reduce the regulatory assessment fee for telecommunications companies and to produce an annual report describing its efforts to reduce the fee; repealing s. 364.337, F.S., relating to competitive local exchange companies; amending s. 364.3375, F.S., relating to pay telephone service providers; requiring pay telephone providers to obtain a certificate of authority from the commission; repealing ss. 364.3376, 364.3381, 364.3382, 364.339, 364.345, and 364.37, F.S., relating to operator services, cross-subsidization, cost disclosures, certificates for territories served, shared tenant services, and powers of the commission relating to service territories, respectively; amending s. 364.385, F.S.; removing obsolete provisions relating to saving clauses; amending s. 364.386, F.S.; revising the content to be included in the report to be filed with the Legislature; repealing ss. 364.501, 364.503, 364.506, 364.507, 364.508, 364.515, 364.516, 364.601, 364.602, 364.603, and 364.604, F.S., relating to the prevention of damages to underground telecommunication facilities, mergers or acquisitions, a short title for education facilities, legislative intent for advanced telecommunication services to eligible facilities, definitions, infrastructure investments, penalties for failing to provide advanced telecommunication services, the short title for telecommunication consumer protections, definitions, the methodology for protecting consumers for changing telecommunication providers, and billing procedures to inform and protect the consumer, respectively; amending ss. 196.012, 199.183, 212.08, 290.007, 350.0605, 364.105, 364.32, and 489.103, F.S.; revising cross-references to conform to changes made by the act; providing an effective date.

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

Section 1. This act may be cited as the “Regulatory Reform Act.”

Section 2. Section 364.01, Florida Statutes, is amended to read:

364.01 Powers of commission, legislative intent.—

(1) The Florida Public Service Commission shall exercise over and in relation to telecommunications companies the powers conferred by this chapter.

(2) It is the legislative intent to give exclusive jurisdiction in all matters set forth in this chapter to the Florida Public Service Commission in regulating telecommunications companies, and such preemption shall supersede any local or special act or municipal charter where any conflict of authority may exist. However, ~~the provisions of this chapter~~ does shall not affect the authority and powers granted in s. 166.231(9) or s. 337.401.

(3) Communications activities that are not regulated by the Florida Public Service Commission, ~~including, but not limited to, VoIP, wireless, and broadband,~~ are subject to this state’s generally applicable business regulation and deceptive trade practices and consumer protection laws, as enforced by the appropriate state authority or through actions in the judicial system. This chapter does not limit the availability to any party of any remedy or defense under state or federal antitrust laws. The Legislature finds that the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and has provided ~~will provide~~ customers with freedom of choice, encouraged ~~encourage~~ the introduction of new telecommunications service, encouraged ~~encourage~~ technological innovation, and encouraged ~~encourage~~ investment in telecommunications infrastructure. ~~The Legislature further finds that the transition from the monopoly provision of local exchange service to the competitive provision thereof will require appropriate regulatory oversight to protect consumers and provide for the development of fair and effective competition, but nothing in this chapter shall limit the availability to any party of any remedy under state or federal antitrust laws. The Legislature further finds that changes in regulations allowing increased competition in telecommunications services could provide the occasion for increases in the telecommunications workforce; therefore, it is in the public interest that competition in telecommunications services lead to a situation that enhances the high-technological skills and the economic status of the telecommunications workforce. The Legislature further finds that the provision of voice-over-Internet protocol (VoIP) free of unnecessary regulation, regardless of the provider, is in the public interest.~~

~~(4) The commission shall exercise its exclusive jurisdiction in order to:~~

~~(a) Protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices.~~

~~(b) Encourage competition through flexible regulatory treatment among providers of telecommunications services in order to ensure the availability of the widest possible range of consumer choice in the provision of all telecommunications services.~~

~~(c) Protect the public health, safety, and welfare by ensuring that monopoly services provided by telecommunications companies continue to be subject to effective price, rate, and service regulation.~~

~~(d) Promote competition by encouraging innovation and investment in telecommunications markets and by allowing a transitional period in which new and emerging technologies are subject to a reduced level of regulatory oversight.~~

~~(e) Encourage all providers of telecommunications services to introduce new or experimental telecommunications services free of unnecessary regulatory restraints.~~

~~(f) Eliminate any rules or regulations which will delay or impair the transition to competition.~~

~~(g) Ensure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory restraint.~~

~~(h) Recognize the continuing emergence of a competitive telecommunications environment through the flexible regulatory treatment of competitive telecommunications services, where appropriate, if doing so does not reduce the availability of adequate basic local telecommunications service to all citizens of the state at reasonable and affordable prices, if competitive telecommunications services are not subsidized by monopoly telecommunications services, and if all monopoly services are available to all competitors on a nondiscriminatory basis.~~

~~(i) Continue its historical role as a surrogate for competition for monopoly services provided by local exchange telecommunications companies.~~

Section 3. Section 364.011, Florida Statutes, is amended to read:

364.011 Exemptions from commission jurisdiction.—The following services are exempt from oversight by the commission, except to the extent delineated in this chapter or specifically authorized by federal law:

- (1) Intrastate interexchange telecommunications services.
- (2) Broadband services, regardless of the provider, platform, or protocol.
- (3) VoIP.
- (4) Wireless telecommunications, including commercial mobile radio service providers.

(5) Basic service.

(6) Nonbasic services or comparable services offered by any telecommunications company.

Section 4. Subsection (2) of section 364.012, Florida Statutes, is amended to read:

364.012 Consistency with federal law.—

(2) This chapter does not limit or modify the duties of a local exchange telecommunications company carrier to provide unbundled access to network elements or the commission’s authority to arbitrate and enforce interconnection agreements to the extent that those elements are required under 47 U.S.C. ss. 251 and 252, and under any regulations issued by the Federal Communications Commission at rates determined in accordance with the standards established by the Federal Communications Commission pursuant to 47 C.F.R. ss. 51.503-51.513, inclusive of any successor regulation or successor forbearance of regulation.

Section 5. Section 364.0135, Florida Statutes, is amended to read:

364.0135 Promotion of broadband adoption deployment.—

(1) The Legislature finds that the sustainable adoption of broadband Internet service is critical to the economic and business development of the state and is beneficial for libraries, schools, colleges and universities, health care providers, and community organizations. The term “sustainable adoption” means the ability for communications service providers to offer broadband services in all areas of the state by encouraging adoption and utilization levels that allow for these services to be offered in the free market absent the need for governmental subsidy. ~~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) Monitor the adoption of ~~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 the sustainable adoption of broadband in primarily unserved areas by removing barriers to entry investments in primarily unserved areas to give consumers a choice of more than one broadband Internet service provider.

3. Work toward encouraging investments in 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 ~~may is authorized to~~ enter into contracts necessary or useful to carry out the purposes of this section.

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

(6) The department ~~may is authorized to~~ adopt rules necessary to carry out the purposes of this section. Any rule, contract, grant, or other activity undertaken by the department shall ensure that all entities are in compliance with any applicable federal or state laws, rules, and regulations, including, but not limited to, those applicable to private entities providing communications services for hire and the requirements of s. 350.81, including, without limitation, the authority to establish definitions of terms pertinent to this section.

Section 6. 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 local exchange service that provides 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, and relay services, ~~and an alphabetical directory listing~~. For a local exchange telecommunications company, the term includes 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) 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.~~

~~(9)~~(10) “Nonbasic service” means any telecommunications service provided by a local exchange telecommunications company other than a basic local telecommunications service, a local interconnection, resale, or unbundling pursuant to arrangement described in s. 364.16, or a network access service described in s. 364.163. Any combination of basic service along with a nonbasic service or an unregulated service is nonbasic service.

~~(10)~~(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.

~~(11)~~(12) “Operator service provider” means a person who furnishes operator service through a call aggregator.

~~(12)~~(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.

~~(13)~~(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 provides a telecommunications facility exclusively to a certificated telecommunications company;

(b) An entity that 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; or

(h) An operator service provider.

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 s.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.

~~(14)~~(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.

~~(15)~~(16) “VoIP” means any service that:

(a) Enables real-time, two-way voice communications that originate from or terminate to the user’s location in Internet Protocol or any successor protocol;

(b) Uses a broadband connection from the user’s location; and

(c) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network the voice-over-Internet protocol as that term is defined in federal law.

Section 7. Section 364.025, Florida Statutes, is repealed.

Section 8. Section 364.0251, Florida Statutes, is repealed.

Section 9. Section 364.0252, Florida Statutes, is repealed.

Section 10. Section 364.04, Florida Statutes, is amended to read:

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

(1) Every telecommunications company shall publish through electronic or physical media schedules showing the rates, tolls, rentals, and charges of that company for service to be offered ~~performed~~ within the state. The commission shall have no jurisdiction over the content or form or format of such published schedules. 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) This chapter does not prohibit a telecommunications company from:

(a) Entering into contracts establishing rates, tolls, rentals, and charges that differ from its published schedules or offering services that are not included in its published schedules; or

(b) Meeting competitive offerings in a specific geographic market or to a specific customer.

(3) This section does not apply to the rates, terms, and conditions established pursuant to 47 U.S.C. ss. 251 and 252. The schedules shall plainly state the places 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.

Section 11. Section 364.051, Florida Statutes, is repealed.

Section 12. Section 364.052, Florida Statutes, is repealed.

Section 13. Section 364.057, Florida Statutes, is repealed.

Section 14. Section 364.058, Florida Statutes, is repealed.

Section 15. Section 364.059, Florida Statutes, is repealed.

Section 16. Section 364.06, Florida Statutes, is repealed.

Section 17. Section 364.063, Florida Statutes, is repealed.

Section 18. Section 364.07, Florida Statutes, is repealed.

Section 19. Section 364.08, Florida Statutes, is repealed.

Section 20. Section 364.10, Florida Statutes, is amended to read:

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

~~(1) A telecommunications company may not make or give any undue or unreasonable preference or advantage to any person or locality or subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.~~

~~(1)(2)(a) The prohibitions of subsection (1) notwithstanding,~~ An eligible telecommunications carrier shall provide a Lifeline Assistance Plan to qualified residential subscribers, as defined in the eligible telecommunications carrier's published schedules a commission approved tariff or price list, and a preferential rate to eligible facilities as provided for in part II. For the purposes of this section, the term "eligible telecommunications carrier" means a telecommunications company, as defined by s. 364.02, which is designated as an eligible telecommunications carrier by the commission pursuant to 47 C.F.R. s. 54.201.

(b) An eligible telecommunications carrier shall offer a consumer who applies for or receives Lifeline service the option of blocking all toll calls or, if technically capable, placing a limit on the number of toll calls a consumer can make. The eligible telecommunications carrier may not charge the consumer an administrative charge or other additional fee for blocking the service.

(c) An eligible telecommunications carrier may not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll blocking or toll limitation. If the qualifying low-income consumer elects not to place toll blocking on the line, an eligible telecommunications carrier may charge a service deposit.

(d) An eligible telecommunications carrier may not charge Lifeline subscribers a monthly number-portability charge.

(e)1. An eligible telecommunications carrier must notify a Lifeline subscriber of impending termination of Lifeline service if the company has a reasonable basis for believing that the subscriber no longer qualifies. Notification of pending termination must be in the form of a letter that is separate from the subscriber's bill.

2. An eligible telecommunications carrier shall allow a subscriber 60 days following the date of the pending termination letter to demonstrate continued eligibility. The subscriber must present proof of continued eligibility. An eligible telecommunications carrier may transfer a subscriber off of Lifeline service, pursuant to its tariff, if the subscriber fails to demonstrate continued eligibility.

3. The commission shall establish procedures for such notification and termination.

(f) An eligible telecommunications carrier shall timely credit a consumer's bill with the Lifeline Assistance credit as soon as practicable, but no later than 60 days following receipt of notice of eligibility from the Office of Public Counsel or proof of eligibility from the consumer.

~~(2)(3)~~(a) Each local exchange telecommunications company that has more than 1 million access lines and that is designated as an eligible telecommunications carrier shall, and any commercial mobile radio service provider designated as an eligible telecommunications carrier pursuant to 47 U.S.C. s. 214(e) may, upon filing a notice of election to do so with the commission, provide Lifeline service to any otherwise eligible customer or potential customer who meets an income eligibility test at 150 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 file or publish a schedule providing at a minimum the intrastate interexchange telecommunications company's ~~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.

~~(e) 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.~~

~~(c)~~(d) An eligible telecommunications carrier may not discontinue basic telecommunications ~~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 pay all applicable basic local telecommunications ~~exchange~~ service fees, including the subscriber line charge, E-911, telephone relay system charges, and applicable state and federal taxes.

~~(d)~~(e) An eligible telecommunications carrier may not refuse to connect, reconnect, or provide Lifeline service because of unpaid toll charges or

nonbasic charges other than basic local telecommunications exchange service.

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

(f)(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.

(g)(h)1. By December 31, 2010, 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 designated eligible telecommunications carriers providing Lifeline services, the development of procedures to promote Lifeline participation. The departments, the commission, and the Office of Public Counsel may exchange sufficient information with the appropriate eligible telecommunications carriers and any commercial mobile radio service provider electing to provide Lifeline service under paragraph (a), such as a person's name, date of birth, service address, and telephone number, so that the carriers can identify and enroll an eligible person in the Lifeline and Link-Up programs. The information remains confidential pursuant to s. 364.107 and may only be used for purposes of determining eligibility and enrollment in the Lifeline and Link-Up programs.

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. By December 31, 2010, the commission, the Department of Children and Family Services, the Office of Public Counsel, and each eligible telecommunications carrier offering Lifeline and Link-Up services shall convene a Lifeline Workgroup to discuss how the eligible subscriber information in subparagraph 1. will be shared, the obligations of each

party with respect to the use of that information, and the procedures to be implemented to increase enrollment and verify eligibility in these programs.

(h)(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.

(i) The commission may undertake appropriate measures to inform low-income consumers of the availability of the Lifeline and Link-Up programs.

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

Section 21. Section 364.15, Florida Statutes, is repealed.

Section 22. Section 364.16, Florida Statutes, is amended to read:

~~364.16 Connection of lines and transfers; Local interconnection, unbundling, and resale; telephone number portability.—~~

(1) The Legislature finds that the competitive provision of local exchange service requires appropriate continued regulatory oversight of carrier-to-carrier relationships in order to provide for the development of fair and effective competition.

(2) It is the intent of the Legislature that in resolving disputes, the commission treat all providers of telecommunications services fairly by preventing anticompetitive behavior, including, but not limited to, predatory pricing.

(3) The commission shall, upon request, arbitrate and enforce interconnection agreements pursuant to 47 U.S.C. ss. 251 and 252 and the Federal Communications Commission's orders and regulations implementing those sections. The commission has the authority to resolve disputes among carriers concerning violations of this chapter and under the authority conferred by federal law to resolve such disputes, including, but not limited to, federal law addressing resale of services, local interconnection, unbundling, number portability, dialing parity, access to rights-of-way, access to poles and conduits, and reciprocal compensation. However, this section does not confer jurisdiction on the commission for services that are exempt from commission jurisdiction under s. 364.011 or s. 364.013. Additionally, 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 the competitive local exchange telecommunications company all substantive and procedural rights available to such companies regarding interconnection under the law.

(4) A telecommunications company may not knowingly deliver traffic, for which terminating access service charges would otherwise apply, through a local interconnection arrangement without paying the appropriate charges for such terminating access service. Any party having a substantial interest may petition the commission for an investigation of any suspected violation of this subsection. If a telecommunications company knowingly violates this subsection, the commission has jurisdiction to arbitrate bona fide complaints arising from the requirements of this subsection and shall, upon such complaint, have access to all relevant customer records and accounts of any telecommunications company.

(5) 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 commission rules, provide remedies for violations of the rules, and allow for the imposition of other penalties available under 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 a complaint, has the burden of proving through competent evidence that the subscriber did in fact request the freeze.

(6) Upon petition, the commission may conduct a limited or expedited proceeding to consider and act upon any matter under this section. The commission shall determine the issues to be considered during such a proceeding and may grant or deny any request to expand the scope of the proceeding to include other matters. The commission shall implement an expedited process to facilitate the quick resolution of disputes between telecommunications companies. The process implemented by the commission shall, to the greatest extent feasible, minimize the time necessary to reach a decision on a dispute. The commission may limit the use of the expedited process based on the number of parties, the number of issues, or the complexity of the issues. For any proceeding conducted pursuant to the expedited process, the commission shall make its determination within 120 days after a petition is filed or a motion is made. The commission shall adopt rules to administer this subsection.

~~(1) Whenever the commission finds that connections between any two or more local exchange telecommunications companies, whose lines form a continuous line of communication or could be made to do so by the construction and maintenance of suitable connections at common points, can reasonably be made and efficient service obtained, and that such connections are necessary, the commission may require such connections to be made, may require that telecommunications services be transferred, and may prescribe through lines and joint rates and charges to be made,~~

used, observed, and in force in the future and fix the rates and charges by order to be served upon the company or companies affected.

~~(2) Each competitive local exchange telecommunications company shall provide access to, and interconnection with, its telecommunications services to any other provider of local exchange telecommunications services requesting such access and interconnection at nondiscriminatory prices, terms, and conditions. If the parties are unable to negotiate mutually acceptable prices, terms, and conditions after 60 days, either party may petition the commission and the commission shall have 120 days to make a determination after proceeding as required by s. 364.162(2) pertaining to interconnection services.~~

~~(3) Each local exchange telecommunications company shall provide access to, and interconnection with, its telecommunications facilities to any other provider of local exchange telecommunications services requesting such access and interconnection at nondiscriminatory prices, rates, terms, and conditions established by the procedures set forth in s. 364.162.~~

~~(a) No local exchange telecommunications company or competitive local exchange telecommunications company shall knowingly deliver traffic, for which terminating access service charges would otherwise apply, through a local interconnection arrangement without paying the appropriate charges for such terminating access service.~~

~~(b) Any party with a substantial interest may petition the commission for an investigation of any suspected violation of paragraph (a). In the event any certificated local exchange service provider knowingly violates paragraph (a), the commission shall have jurisdiction to arbitrate bona fide complaints arising from the requirements of this subsection and shall, upon such complaint, have access to all relevant customer records and accounts of any telecommunications company.~~

~~(7)(4) In order to ensure assure that consumers have access to different local exchange service providers without being disadvantaged, deterred, or inconvenienced by having to give up the consumer's existing local telephone number, the commission must make sure that all providers of local exchange services must have access to local telephone numbering resources and assignments on equitable terms that include a recognition of the scarcity of such resources and that are in accordance with national assignment guidelines. Each local exchange provider, except small local exchange telecommunications companies under rate of return regulation, shall provide a temporary means of achieving telephone number portability. The parties, under the direction of the commission, shall set up a number portability standards group by no later than September 1, 1995, for the purposes of investigation and development of appropriate parameters, costs, and standards for number portability. If the parties are unable to successfully negotiate the prices, terms, and conditions of a temporary number portability solution, the commission shall establish a temporary number portability solution by no later than January 1, 1996. Each local exchange service~~

provider shall make necessary modifications to allow permanent portability of local telephone numbers between certificated providers of local exchange service as soon as reasonably possible after the development of national standards. The parties shall negotiate the prices, terms, and conditions for permanent telephone number portability arrangements. In the event the parties are unable to satisfactorily negotiate the prices, terms, and conditions, either party may petition the commission and the commission shall, after opportunity for a hearing, set the rates, terms, and conditions. The prices and rates shall not be below cost. Number portability between different certificated providers of local exchange service at the same location shall be provided temporarily no later than January 1, 1996.

(8)(5) When requested, each certificated telecommunications company shall provide access to any poles, conduits, rights-of-way, and like facilities that it owns or controls to any local exchange telecommunications company or competitive local exchange telecommunications company pursuant to reasonable rates and conditions mutually agreed to which do not discriminate between similarly situated companies.

Section 23. Section 364.161, Florida Statutes, is repealed.

Section 24. Section 364.162, Florida Statutes, is repealed.

Section 25. Section 364.163, Florida Statutes, is amended to read:

364.163 Network access services.—For purposes of this section, the term “network access service” is defined as any service provided by a local exchange telecommunications company to a telecommunications company certificated under this chapter or licensed by the Federal Communications Commission to access the local exchange telecommunications network, excluding the local interconnection, resale, or unbundling pursuant to arrangements in s. 364.16 and the resale arrangements in s. 364.161. Each local exchange telecommunications company subject to s. 364.051 shall maintain tariffs with the commission containing the terms, conditions, and rates for each of its network access services. The switched network access service rates in effect immediately prior to July 1, 2007, shall be, and shall remain, capped at that level until July 1, 2010. An interexchange telecommunications company may not institute any intrastate connection fee or any similarly named fee.

Section 26. Section 364.183, Florida Statutes, is amended to read:

364.183 Access to company records.—

(1) The commission shall have access to all records of a telecommunications company which ~~that~~ are reasonably necessary for the disposition of matters within the commission’s jurisdiction. ~~The commission shall also have access to those records of a local exchange telecommunications company’s affiliated companies, including its parent company, that are reasonably necessary for the disposition of any matter concerning an affiliated~~

~~transaction or a claim of anticompetitive behavior including claims of cross-subsidization and predatory pricing.~~ The commission may require a telecommunications company to file records, reports or other data directly related to matters within the commission's jurisdiction in the form specified by the commission and may require such company to retain such information for a designated period of time. Upon request of the company or other person, any records received by the commission which are claimed by the company or other person to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(2) Discovery in any docket or proceeding before the commission shall be in the manner provided for in Rule 1.280 of the Florida Rules of Civil Procedure. Upon a showing by a company or other person and a finding by the commission that discovery will require the disclosure of proprietary confidential business information, the commission shall issue an appropriate protective order designating the manner for handling such information during the course of the proceeding and for protecting such information from disclosure outside the proceeding. Such proprietary confidential business information shall be exempt from s. 119.07(1). Any records provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the commission and the Office of the Public Counsel and any other party subject to the public records law as confidential and shall be exempt from s. 119.07(1), pending a formal ruling on such request by the commission or the return of the records to the person providing the records. Any record which has been determined to be proprietary confidential business information and is not entered into the official record of the proceeding shall be returned to the person providing the record within 60 days after the final order, unless the final order is appealed. If the final order is appealed, any such record shall be returned within 30 days after the decision on appeal. The commission shall adopt the necessary rules to implement this subsection.

(3) The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. The term includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.

(d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.

(f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

(4) Any finding by the commission that a record contains proprietary confidential business information is effective for a period set by the commission not to exceed 18 months, unless the commission finds, for good cause, that the protection from disclosure shall be for a specified longer period. The commission shall order the return of a record containing proprietary confidential business information when such record is no longer necessary for the commission to conduct its business. At that time, the commission shall order any other person holding such record to return it to the person providing the record. Any record containing proprietary confidential business information which has not been returned at the conclusion of the period set pursuant to this subsection shall no longer be exempt from s. 119.07(1) unless the telecommunications company or affected person shows, and the commission finds, that the record continues to contain proprietary confidential business information. Upon such finding, the commission may extend the period for confidential treatment for a period not to exceed 18 months unless the commission finds, for good cause, that the protection from disclosure shall be for a specified longer period. During commission consideration of an extension, the record in question remains exempt from s. 119.07(1). The commission shall adopt rules to implement this subsection, which shall include notice to the telecommunications company or affected person regarding the expiration of confidential treatment.

Section 27. Section 364.185, Florida Statutes, is repealed.

Section 28. Section 364.19, Florida Statutes, is repealed.

Section 29. Section 364.27, Florida Statutes, is repealed.

Section 30. Section 364.33, Florida Statutes, is amended to read:

364.33 Certificate of necessity or authority 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 provide begin the construction or operation of any telecommunications services to the public without a certificate of necessity or a certificate of authority. After July 1, 2011, the commission shall cease to issue certificates of necessity, but existing certificates of necessity remain valid. A certificate of necessity or authority may be transferred to the holder's parent company or an affiliate or another person holding a certificate of necessity or authority,

~~its parent company, or an affiliate without prior approval of the commission by giving written notice of the transfer to the commission within 60 days after the completion of the transfer. The transferee assumes the rights and obligations conferred by the certificate. This section does not affect any obligation of the transferee pursuant to 47 U.S.C. ss. 251 and 252 and the Federal Communications Commission's orders and regulations implementing those sections. 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 31. Section 364.335, Florida Statutes, is amended to read:

364.335 Application for certificate of authority.—

(1) Each applicant for a certificate of authority shall:

(a) Provide the following information:

1. The applicant's official name and, if different, any name under which the applicant will do business.

2. The street address of the principal place of business of the applicant.

3. The federal employer identification number or the Department of State's document number.

4. The name, address, and telephone number of an officer, partner, owner, member, or manager as a contact person for the applicant to whom questions or concerns may be addressed.

5. Information demonstrating the applicant's managerial, technical, and financial ability to provide telecommunications service, including an attestation to the accuracy of the information provided. ~~provide all information required by rule or order of the commission, which may include a detailed inquiry into the ability of the applicant to provide service, a detailed inquiry into the territory and facilities involved, and a detailed inquiry into~~

the existence of service from other sources within geographical proximity to the territory applied for.

~~(b) File with the commission schedules showing all rates for service of every kind furnished by it and all rules and contracts relating to such service.~~

~~(b)(e) File the application fee required by the commission in an amount not to exceed \$500. Such fees shall be deposited in accordance with s. 350.113.~~

~~(d) Submit an affidavit that the applicant has caused notice of its application to be given to such persons and in such manner as may be prescribed by commission rule.~~

(2) The commission shall grant a certificate of authority to provide telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served. The applicant shall ensure continued compliance with applicable business formation, registration, and taxation provisions of law. If the commission grants the requested certificate, any person who would be substantially affected by the requested certification may, within 21 days after the granting of such certificate, file a written objection requesting a proceeding pursuant to ss. 120.569 and 120.57. The commission may, on its own motion, institute a proceeding under ss. 120.569 and 120.57 to determine whether the grant of such certificate is in the public interest. The commission shall order such proceeding conducted in or near the territory applied for, if feasible. If any person requests a public hearing on the application, such hearing shall, if feasible, be held in or near the territory applied for, and the transcript of the public hearing and any material submitted at or prior to the hearing shall be considered part of the record of the application and any proceeding related to the application.

(3) A certificate of authority may be terminated by the telecommunications company by submitting notice to the commission. The commission may grant a certificate, in whole or in part or with modifications in the public interest, but in no event granting authority greater than that requested in the application or amendments thereto and noticed under subsection (1); or it may deny a certificate. The commission may grant certificates for proposed telecommunications companies, or for the extension of an existing telecommunications company, without regard to whether such companies will be in competition with or duplicate the local exchange services provided by any other telecommunications company. The commission may also grant a certificate for a proposed telecommunications company, or for the extension of an existing telecommunications company, which will be providing either competitive or duplicative pay telephone service pursuant to the provisions of s. 364.3375, or private line service by a certified alternative access vendor pursuant to s. 364.337(6). Pay telephone service shall include that telephone service using telephones that are capable of accepting payment by specie, paper money, or credit cards.

(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 32. Section 364.336, Florida Statutes, is amended to read:

364.336 Regulatory assessment fees.—

(1) Notwithstanding any provisions of law to the contrary, each telecommunications company licensed or operating under this chapter, for any part of the preceding 6-month period, shall pay to the commission, within 30 days following the end of each 6-month period, a fee that may not exceed 0.25 percent annually of its gross operating revenues derived from intrastate business, except, for purposes of this section and the fee specified in s. 350.113(3), any amount paid to another telecommunications company for the use of any telecommunications network shall be deducted from the gross operating revenue for purposes of computing the fee due. The commission shall by rule assess a minimum fee in an amount up to \$1,000. The minimum amount may vary depending on the type of service provided by the telecommunications company, and shall, to the extent practicable, be related to the cost of regulating such type of company. Differences, if any, between the amount paid in any 6-month period and the amount actually determined by the commission to be due shall, upon motion by the commission, be immediately paid or refunded. Fees under this section may not be less than \$50 annually. Such fees shall be deposited in accordance with s. 350.113. The commission may by rule establish criteria for payment of the regulatory assessment fee on an annual basis rather than on a semiannual basis.

(2) By August 1, 2011, the commission must begin rulemaking to reduce the regulatory assessment fee for telecommunications companies under s. 350.113 and this section, as required to reflect the reduction in regulation resulting from the amendments to chapter 364 that take effect on July 1, 2011. The reduced fee shall be applied beginning with payments due in January 2012 on revenues for the preceding 6-month period. The commission's consideration of the required amount of the reduction to the regulatory assessment fee must include, but is not limited to:

(a) The regulatory activities that are no longer required and the number of staff currently assigned to such activities.

(b) The number of staff necessary to carry out the reduced level of regulatory responsibilities based on reductions in workload for the staff in the Division of Regulatory Analysis, the Office of Auditing and Performance Analysis, and the Division of Service, Safety and Consumer Assistance.

(c) The reductions in overhead associated with the commissioner's offices, the Office of General Counsel, the Office of Commission Clerk, the Office of Information Technology Services, the Office of Public Information, and the Office of Inspector General.

(d) The reductions in direct and indirect costs, including allocations of fixed costs.

(3) By January 15, 2012, and annually thereafter, the commission must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, providing a detailed description of its efforts to reduce the regulatory assessment fee for telecommunications companies, including a detailed description of the regulatory activities that are no longer required; the commensurate reduction in costs associated with this reduction in regulation; the regulatory activities that continue to be required under this chapter; and the costs associated with those regulatory activities.

Section 33. Section 364.337, Florida Statutes, is repealed.

Section 34. Section 364.3375, Florida Statutes, is amended to read:

364.3375 Pay telephone service providers.—

(1)(a) ~~A No person may not shall~~ provide pay telephone service without first obtaining from the commission a certificate of authority or necessity ~~public convenience and necessity~~ to provide such service, except that the certification provisions of this subsection do not apply to a local exchange telecommunications company providing pay telephone service.

(b) In granting such certificate the commission, if it finds that the action is consistent with the public interest, may exempt a pay telephone provider from some or all of the requirements of this chapter. However, the commission may exempt a pay telephone provider from this section only to prevent fraud or if it finds the exemption to be in the public interest.

(c) A certificate authorizes the pay telephone provider to provide services statewide and to provide access to both local and intrastate interexchange pay telephone service, except that the commission may limit the type of calls that can be handled.

(2) Each pay telephone station shall:

(a) Receive and permit coin-free access to the universal emergency telephone number “911” where operable or to a local exchange company toll operator.

(b) Receive and provide coin-free or coin-return access to local directory assistance and the telephone number of the person responsible for repair service.

(c) Designate a party responsible for processing refunds to customers.

(d) Be equipped with a legible sign, card, or plate of reasonable permanence which provides information determined by the commission, by rule, to adequately inform the end user.

(e) Be eligible to subscribe to flat-rate, single-line business local exchange services.

(3) Each pay telephone station which provides access to any interexchange telecommunications company shall provide access to all locally available interexchange telecommunications companies and shall provide for the completion of international telephone calls under terms and conditions as determined by the commission. The commission may grant limited waivers of this provision to pay telephone companies ~~or operator service providers~~ to prevent fraud or as otherwise determined in the public interest.

~~(4) A pay telephone provider may charge, as a maximum rate for local coin calls, a rate equivalent to the local coin rate of the local exchange telecommunications company.~~

~~(5) A pay telephone provider shall not obtain services from an operator service provider unless such operator service provider has obtained a certificate of public convenience and necessity from the commission pursuant to the provisions of s. 364.3376.~~

Section 35. Section 364.3376, Florida Statutes, is repealed.

Section 36. Section 364.3381, Florida Statutes, is repealed.

Section 37. Section 364.3382, Florida Statutes, is repealed.

Section 38. Section 364.339, Florida Statutes, is repealed.

Section 39. Section 364.345, Florida Statutes, is repealed.

Section 40. Section 364.37, Florida Statutes, is repealed.

Section 41. Section 364.385, Florida Statutes, is amended to read:

364.385 Saving clauses.—

~~(1) This act does not invalidate any certificate or cause to be unlawful any rate which has been previously approved and which is lawfully being charged and collected immediately prior to July 1, 1995. However, such rate may not be changed, and a certificate may not be modified, suspended, or revoked, on or after July 1, 1995, except in accordance with the provisions of this act.~~

~~(2) All applications for extended area service, routes, or extended calling service pending before the commission on March 1, 1995, shall be governed by the law as it existed prior to July 1, 1995. Upon the approval of the application, the extended area service, routes, or extended calling service shall be considered basic services and shall be regulated as provided in s. 364.051. Proceedings including judicial review pending on July 1, 1995, shall be governed by the law as it existed prior to the date on which this section becomes a law. No new proceedings governed by the law as it existed prior to July 1, 1995, shall be initiated after July 1, 1995. Any administrative~~

adjudicatory proceeding which has not progressed to the stage of a hearing by July 1, 1995, may, with the consent of all parties and the commission, be conducted in accordance with the law as it existed prior to January 1, 1996.

~~(3) Florida Public Service Commission Order No. PSC 94-0172-FOF-TL shall remain in effect, and BellSouth Telecommunications, Inc., shall fully comply with that order unless modified by the Florida Public Service Commission pursuant to the terms of that order. The order may not be modified to extend beyond December 31, 1997, except that the Florida Public Service Commission shall retain jurisdiction and all parties shall retain their rights under the agreement after December 31, 1997, solely for the purpose of effectuating the provisions of the order applicable to periods prior to January 1, 1998. The depreciation rates approved by the Florida Public Service Commission and in effect as of December 31, 1994, shall be used to calculate the earnings available for sharing for periods prior to January 1, 1998.~~

(4) The rates and charges for basic local telecommunications service and network access service approved by the commission in accordance with the decisions set forth in Order Nos. PSC 03-1469-FOF-TL and PSC 04-0456-FOF-TL, and which are in effect immediately prior to July 1, 2007, shall remain in effect and such rates and charges may not be changed after the effective date of this act, except in accordance with the provisions of s. 364.163 ss. 364.051 and 364.163.

Section 42. Section 364.386, Florida Statutes, is amended to read:

364.386 Reports to the Legislature.—

(1)(a) The commission shall submit to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and the House of Representatives, on August 1, 2008, and on an annual basis thereafter, a report on the status of competition in the telecommunications industry and a detailed exposition of the following:

~~1.—The overall impact of local exchange telecommunications competition on the continued availability of universal service.~~

1.2. The ability of competitive providers to make functionally equivalent local exchange services available to both residential and business customers at competitive rates, terms, and conditions.

2.3. The ability of consumers to obtain functionally equivalent services at comparable rates, terms, and conditions.

3.4. The overall impact of competition price regulation on the maintenance of reasonably affordable and reliable high-quality telecommunications services.

4.5. A listing and short description of any carrier disputes filed under s. 364.16. What additional services, if any, should be included in the definition

~~of basic local telecommunications services, taking into account advances in technology and market demand.~~

~~6. Any other information and recommendations which may be in the public interest.~~

(b) The commission shall make an annual request to providers of local exchange telecommunications services on or before March 1, 2008, and on or before March 1 of each year thereafter, for the data it requires to complete the report. A provider of local exchange telecommunications services shall file its response with the commission on or before April 15, 2008, and on or before April 15 of each year thereafter.

~~(2) In lieu of~~ The quantitative part of the information requested in the commission's annual data request shall be limited to, ~~a provider of local exchange telecommunications services may file the following:~~

~~(a)~~ a copy of the FCC Form 477 filed by a provider of local exchange telecommunications service with the Federal Communications Commission, which must identify Florida-specific access line data or similar information if an FCC Form 477 is not available,; and

~~(b) Provisioned Florida access line data identified by telephone exchange location.~~

~~(3) The Office of Public Counsel is also directed to submit a report on competition in the telecommunications industry and on how the price regulation provisions of s. 364.051 have benefited the ratepayers and consumers of this state and any other information and recommendations which may be in the public interest.~~

Section 43. Section 364.501, Florida Statutes, is repealed.

Section 44. Section 364.503, Florida Statutes, is repealed.

Section 45. Section 364.506, Florida Statutes, is repealed.

Section 46. Section 364.507, Florida Statutes, is repealed.

Section 47. Section 364.508, Florida Statutes, is repealed.

Section 48. Section 364.515, Florida Statutes, is repealed.

Section 49. Section 364.516, Florida Statutes, is repealed.

Section 50. Section 364.601, Florida Statutes, is repealed.

Section 51. Section 364.602, Florida Statutes, is repealed.

Section 52. Section 364.603, Florida Statutes, is repealed.

Section 53. Section 364.604, Florida Statutes, is repealed.

Section 54. Subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. 332.004(14) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state, a spaceport as defined in s. 331.303, or which is located in a deepwater port identified in s. 403.021(9)(b) and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation, airport, aerospace, maritime, or port purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose. The use by a lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historic preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose. The term “governmental purpose” also includes a direct use of property on federal lands in connection with the Federal Government’s Space Exploration Program or spaceport activities as defined in s. 212.02(22). Real property and tangible personal property owned by the

Federal Government or Space Florida and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. “Owned by the lessee” as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of “ownership,” buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed “owned” by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14) ~~s. 364.02(15)~~, and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator’s provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital.

Section 55. Paragraph (b) of subsection (1) of section 199.183, Florida Statutes, is amended to read:

199.183 Taxpayers exempt from nonrecurring taxes.—

(1) Intangible personal property owned by this state or any of its political subdivisions or municipalities shall be exempt from taxation under this chapter. This exemption does not apply to:

(b) Property related to the provision of two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14) ~~s. 364.02(15)~~, and for which a certificate is required under chapter 364, when the service is provided by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this paragraph is hereby waived. However, intangible personal property related to the provision of telecommunications services provided by the operator of a public-use airport, as defined in s. 332.004, for the operator’s provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, and intangible personal property related to the provision of telecommunications services provided by a public hospital, are exempt from taxation under this chapter.

Section 56. Subsection (6) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(6) EXEMPTIONS; POLITICAL SUBDIVISIONS.—There are also exempt from the tax imposed by this chapter sales made to the United States Government, a state, or any county, municipality, or political subdivision of a state when payment is made directly to the dealer by the governmental entity. This exemption shall not inure to any transaction otherwise taxable under this chapter when payment is made by a government employee by any means, including, but not limited to, cash, check, or credit card when that employee is subsequently reimbursed by the governmental entity. This exemption does not include sales of tangible personal property made to contractors employed either directly or as agents of any such government or political subdivision thereof when such tangible personal property goes into or becomes a part of public works owned by such government or political subdivision. A determination whether a particular transaction is properly characterized as an exempt sale to a government entity or a taxable sale to a contractor shall be based on the substance of the transaction rather than the form in which the transaction is cast. The department shall adopt rules that give special consideration to factors that govern the status of the tangible personal property before its affixation to real property. In developing these rules, assumption of the risk of damage or loss is of paramount consideration in the determination. This exemption does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in the generation, transmission, or distribution of electrical energy by systems owned and operated by a political subdivision in this state for transmission or distribution expansion. Likewise exempt are charges for services rendered by radio and television stations, including line charges, talent fees, or license fees and charges for films, videotapes, and transcriptions used in producing radio or television broadcasts. The exemption provided in this subsection does not include sales, rental, use, consumption, or storage for use in any political subdivision or municipality in this state of machines and equipment and parts and accessories therefor used in providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14) ~~s. 364.02(15)~~, and for which a certificate is required under chapter 364, which facility is owned and operated by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this section is hereby waived. However, the exemption provided in this subsection includes transactions taxable under this chapter which are for use by the operator of a public-use airport, as defined in s. 332.004, in providing such telecommunications services for the airport or its tenants, concessionaires, or licensees,

or which are for use by a public hospital for the provision of such telecommunications services.

Section 57. Subsection (8) of section 290.007, Florida Statutes, is amended to read:

290.007 State incentives available in enterprise zones.—The following incentives are provided by the state to encourage the revitalization of enterprise zones:

(8) Notwithstanding any law to the contrary, the Public Service Commission may allow public utilities and telecommunications companies to grant discounts of up to 50 percent on tariffed rates for services to small businesses located in an enterprise zone designated pursuant to s. 290.0065. Such discounts may be granted for a period not to exceed 5 years. For purposes of this subsection, the term “public utility” has the same meaning as in s. 366.02(1) and the term “telecommunications company” has the same meaning as in s. 364.02(13) ~~s. 364.02(14)~~.

Section 58. Subsection (3) of section 350.0605, Florida Statutes, is amended to read:

350.0605 Former commissioners and employees; representation of clients before commission.—

(3) For a period of 2 years following termination of service on the commission, a former member may not accept employment by or compensation from a business entity which, directly or indirectly, owns or controls a public utility regulated by the commission, from a public utility regulated by the commission, from a business entity which, directly or indirectly, is an affiliate or subsidiary of a public utility regulated by the commission or is an actual business competitor of a local exchange company or public utility regulated by the commission and is otherwise exempt from regulation by the commission under ss. 364.02(13) ~~ss. 364.02(14)~~ and 366.02(1), or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member’s termination of service on the commission. This subsection applies only to members of the Florida Public Service Commission who are appointed or reappointed after May 10, 1993.

Section 59. 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 s. 364.10 ~~ss. 364.08 and 364.10~~.

Section 60. Section 364.32, Florida Statutes, is amended to read:

364.32 Definitions applicable to s. 364.33 ~~ss. 364.33, 364.337, 364.345 and 364.37~~.—As used in ~~ss. 364.33, 364.337, 364.345 and 364.37~~:

(1) “Person” means:

(a) Any natural person, firm, association, county, municipality, corporation, business, trust, or partnership owning, leasing, or operating any facility used in the furnishing of public telecommunications service within this state; and

(b) A cooperative, nonprofit, membership corporation, or limited dividend or mutual association, now or hereafter created, with respect to that part or portion of its operations devoted to the furnishing of telecommunications service within this state.

(2) “Territory” means any area, whether within or without the boundaries of a municipality.

Section 61. Subsection (5) of section 489.103, Florida Statutes, is amended to read:

489.103 Exemptions.—This part does not apply to:

(5) Public utilities, including special gas districts as defined in chapter 189, telecommunications companies as defined in s. 364.02(13) ~~s. 364.02(14)~~, and natural gas transmission companies as defined in s. 368.103(4), on construction, maintenance, and development work performed by their employees, which work, including, but not limited to, work on bridges, roads, streets, highways, or railroads, is incidental to their business. The board shall define, by rule, the term “incidental to their business” for purposes of this subsection.

Section 62. This act shall take effect July 1, 2011.

Approved by the Governor May 5, 2011.

Filed in Office Secretary of State May 5, 2011.