

Committee Substitute for Senate Bill No. 654

An act relating to regulation of telecommunications companies; providing a popular name; amending s. 364.01, F.S.; providing legislative finding that provision of unregulated voice-over-internet protocol is in the public interest; amending s. 364.02, F.S.; changing the term “alternative local exchange telecommunications company” to “competitive local exchange telecommunications company”; defining the term “intrastate interexchange telecommunications company”; limiting the definition of “service”; amending s. 364.025, F.S.; conforming terminology; extending the time period for mandatory provision of basic local exchange telecommunications services within the territory of a local exchange telecommunications company; extending the transitional time period for the Public Service Commission’s providing an interim mechanism for maintaining universal service objectives; providing authority for the Public Service Commission to change the mechanism upon petition during such period; delaying requirement that the Legislature establish a permanent mechanism; delaying date on which competitive local exchange telecommunications company may petition the Public Service Commission to become a universal service provider and carrier of last resort; amending s. 365.0361, F.S.; providing exclusivity for certain regulations; amending s. 364.051, F.S.; conforming terminology; providing circumstances under which certain telecommunications companies may elect alternative regulations; providing an exception; prohibiting an increase in certain regulations on competitive local exchange telecommunications companies; amending s. 364.052, F.S.; conforming terminology; amending s. 364.058, F.S.; providing for an expedited process to facilitate quick resolution of disputes between telecommunications companies; providing rulemaking authority; creating s. 364.059, F.S.; providing procedures for staying election of local exchange telecommunications companies to be subject to alternative regulations; requiring the Public Service Commission to provide benchmarks and criteria for granting stays; providing rulemaking authority; amending s. 364.10, F.S.; requiring certain local exchange telecommunications companies to provide Lifeline services to certain persons; providing for eligibility determinations by the Public Counsel for receipt of such services; prohibiting rate increases for basic local telecommunications services provided to such eligible persons; requiring distribution of certain materials; requiring annual reports; amending ss. 364.16, 364.161, and 364.162, F.S.; conforming terminology; amending s. 364.163, F.S.; deleting obsolete language; changing period in which intrastate access rates are capped; removing limitations on certain rate increases; eliminating certain fees; providing presumption of validity for certain tariff changes made by intrastate interexchange telecommunications companies; creating s. 364.164, F.S.; authorizing local exchange telecommunications companies to petition the Public Service Commission for reduction of intrastate network access rates under certain circumstances; requiring revenue neutrality; providing criteria for the

commission to consider; amending s. 364.337, F.S.; conforming terminology; amending s. 364.3376, F.S.; eliminating the requirement that intrastate interexchange telecommunications companies obtain a certificate of public convenience prior to providing operator services; amending ss. 364.502 and 365.172, F.S.; conforming terminology; amending ss. 196.012, 199.183, 212.08, 290.007, 350.0605, 364.602, and 489.103, F.S.; correcting cross-references to s. 364.02, F.S.; providing an effective date.

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

Section 1. This act may be cited as the “Tele-Competition Innovation and Infrastructure Enhancement Act.”

Section 2. Subsection (3) of section 364.01, Florida Statutes, is amended to read:

364.01 Powers of commission, legislative intent.—

(3) The Legislature finds that the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and 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.

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

364.02 Definitions.—As used in this chapter:

(1) ~~“Alternative 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.~~

(1)(2) “Basic local telecommunications service” means voice-grade, flat-rate residential, and flat-rate single-line business local exchange 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, such term 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)~~(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(n) and 332(d).

~~(3)~~(4) “Commission” means the Florida Public Service Commission.

(4) “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.

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

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

~~(7)~~(6) “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.

~~(8)~~(7) “Monopoly service” means a telecommunications service for which there is no effective competition, either in fact or by operation of law.

~~(9)~~(8) “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.

~~(10)~~(9) “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)~~(10) “Operator service provider” means a person who furnishes operator service through a call aggregator.

~~(12)~~(11) “Service” is to be construed in its broadest and most inclusive sense. The term “service” does not include 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.

~~(13)~~(12) “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 which provides a telecommunications facility exclusively to a certificated telecommunications company;
- (b) An entity 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; or
- (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 pursuant to chapters 202, 203 and 212 and any fees assessed pursuant to ss. s. 364.025 and 364.336. Each intrastate interexchange telecommunications company shall continue to be subject to ss. 364.04, 364.10(3)(a) and (d), 364.285, 364.163, 364.501, 364.603, and 364.604, shall provide the commission with such current information as the commission deems necessary to contact and communicate with the company, 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 s. 364.163(2).

(14)(13) “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.

Section 4. Section 364.025, Florida Statutes, is amended to read:

364.025 Universal service.—

(1) For the purposes of this section, the term “universal service” means an evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the commission determines should be provided at just, reasonable, and affordable rates to customers, including those in rural, economically disadvantaged, and high-cost areas. It is the intent of the Legislature that universal service objectives be maintained after the local exchange market is opened to competitively provided services. It is also the intent of the Legislature that during this transition period the ubiquitous nature of the local exchange telecommunications companies be used to satisfy these objectives. Until January 1, 2009 ~~For a period of 8 years after January 1, 1996,~~

each local exchange telecommunications company shall be required to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's service territory.

(2) The Legislature finds that each telecommunications company should contribute its fair share to the support of the universal service objectives and carrier-of-last-resort obligations. For a transitional period not to exceed January 1, ~~2009~~ 2004, the interim mechanism for maintaining universal service objectives and funding carrier-of-last-resort obligations shall be established by the commission, pending the implementation of a permanent mechanism. The interim mechanism shall be applied in a manner that ensures that each ~~competitive alternative~~ local exchange telecommunications company contributes its fair share to the support of universal service and carrier-of-last-resort obligations. The interim mechanism applied to each ~~competitive alternative~~ local exchange telecommunications company shall reflect a fair share of the local exchange telecommunications company's recovery of investments made in fulfilling its carrier-of-last-resort obligations, and the maintenance of universal service objectives. The commission shall ensure that the interim mechanism does not impede the development of residential consumer choice or create an unreasonable barrier to competition. In reaching its determination, the commission shall not inquire into or consider any factor that is inconsistent with s. 364.051(1)(c). The costs and expenses of any government program or project required in part II of this chapter shall not be recovered under this section.

(3) ~~If in the event~~ any party, prior to January 1, ~~2009~~ 2004, believes that circumstances have changed substantially to warrant a change in the interim mechanism, that party may petition the commission for a change, but the commission shall grant such petition only after an opportunity for a hearing and a compelling showing of changed circumstances, including that the provider's customer population includes as many residential as business customers. The commission shall act on any such petition within 120 days.

(4)(a) Prior to January 1, ~~2009~~ 2004, the Legislature shall establish a permanent universal service mechanism upon the effective date of which any interim recovery mechanism for universal service objectives or carrier-of-last-resort obligations imposed on ~~competitive alternative~~ local exchange telecommunications companies shall terminate.

(b) To assist the Legislature in establishing a permanent universal service mechanism, the commission, by February 15, 1999, shall determine and report to the President of the Senate and the Speaker of the House of Representatives the total forward-looking cost, based upon the most recent commercially available technology and equipment and generally accepted design and placement principles, of providing basic local telecommunications service on a basis no greater than a wire center basis using a cost proxy model to be selected by the commission after notice and opportunity for hearing.

(c) In determining the cost of providing basic local telecommunications service for small local exchange telecommunications companies, which serve

less than 100,000 access lines, the commission shall not be required to use the cost proxy model selected pursuant to paragraph (b) until a mechanism is implemented by the Federal Government for small companies, but no sooner than January 1, 2001. The commission shall calculate a small local exchange telecommunications company's cost of providing basic local telecommunications services based on one of the following options:

1. A different proxy model; or
2. A fully distributed allocation of embedded costs, identifying high-cost areas within the local exchange area the company serves and including all embedded investments and expenses incurred by the company in the provision of universal service. Such calculations may be made using fully distributed costs consistent with 47 C.F.R. parts 32, 36, and 64. The geographic basis for the calculations shall be no smaller than a census block group.

(5) After January 1, 2001, a competitive ~~an alternative~~ local exchange telecommunications company may petition the commission to become the universal service provider and carrier of last resort in areas requested to be served by that competitive alternative local exchange telecommunications company. Upon petition of a competitive ~~an alternative~~ local exchange telecommunications company, the commission shall have 120 days to vote on granting in whole or in part or denying the petition of the competitive alternative local exchange company. The commission may establish the competitive alternative local exchange telecommunications company as the universal service provider and carrier of last resort, provided that the commission first determines that the competitive alternative local exchange telecommunications company will provide high-quality, reliable service. In the order establishing the competitive alternative local exchange telecommunications company as the universal service provider and carrier of last resort, the commission shall set the period of time in which such company must meet those objectives and obligations ~~and shall set up any mechanism needed to aid such company in carrying out these duties.~~

Section 5. Section 364.0361, Florida Statutes, is amended to read:

364.0361 Local government authority; nondiscriminatory exercise.—A local government shall treat each telecommunications company in a nondiscriminatory manner when exercising its authority to grant franchises to a telecommunications company or to otherwise establish conditions or compensation for the use of rights-of-way or other public property by a telecommunications company. A local government may not directly or indirectly regulate the terms and conditions, including, but not limited to, the operating systems, qualifications, services, service quality, service territory, and prices, applicable to or in connection with the provision of any broadband or information service. This section does not relieve a provider from any obligations under s. 166.046 or s. 337.401.

Section 6. Paragraph (a) of subsection (1) and subsection (3) of section 364.051, Florida Statutes, are amended, and subsections (6), (7), and (8) are added to that section, 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:

(a) For a local exchange telecommunications company with 100,000 or more access lines in service as of July 1, 1995, such company may file with the commission a notice of election to be under price regulation effective January 1, 1996, or when ~~a competitive an alternative~~ local exchange telecommunications company is certificated to provide local exchange telecommunications services in its service territory, whichever is later.

(3) ~~If In the event that~~ it is determined that the level of competition justifies the elimination of price caps in an exchange served by a local exchange telecommunications company with less than 3 million basic local telecommunications service access lines in service, or at the end of 5 years for any local exchange telecommunications company, the local exchange telecommunications company may thereafter on 30 days' notice adjust its basic service ~~revenues~~ prices once in any 12-month period in an amount not to exceed the change in inflation less 1 percent. Inflation shall be measured by the changes in the Gross Domestic Product Fixed 1987 Weights Price Index, or successor fixed weight price index, published in the Survey of Current Business or a publication, by the United States Department of Commerce. In the event any local exchange telecommunications company, after January 1, 2001, believes that the level of competition justifies the elimination of any form of price regulation, the company may petition the Legislature.

(6) After a local exchange telecommunications company that has more than 1 million access lines in service has reduced its intrastate switched network access rates to parity, as defined in s. 364.164(5), the local exchange telecommunications company's basic local telecommunications service may, at the company's election, be subject to the same regulatory treatment as its nonbasic services. The company's retail service quality requirements that are not already equal to the service quality requirements imposed upon the competitive local exchange telecommunications companies shall thereafter be no greater than those imposed upon competitive local exchange telecommunications companies unless the commission, within 120 days after the company's election, determines otherwise. In such event, the commission may grant some reductions in service quality requirements in some or all of the company's local calling areas. The commission may not impose retail service quality requirements on competitive local exchange telecommunications companies greater than those existing on January 1, 2003.

(7) If a local exchange telecommunications company elects, pursuant to subsection (6), to subject its retail basic local telecommunications services to the same regulatory treatment as its nonbasic services, the local exchange telecommunications company may petition the commission for regulatory treatment of its retail services at a level no greater than that imposed by the commission upon competitive local exchange telecommunications companies. The local exchange telecommunications company shall:

(a) Show that granting the petition is in the public interest;

(b) Reduce its intrastate switched network access rates to its local reciprocal interconnection rate upon the grant of the petition.

The commission shall act upon such a petition within 9 months after its filing with the commission. In making its determination to either grant or deny the petition, the commission shall determine the extent to which the level of competition faced by the local exchange telecommunications company permits and will continue to permit the company to have its retail services regulated no differently than the competitive local exchange telecommunications companies are then being regulated. The commission may not increase the level of regulation for competitive local exchange telecommunications companies to a level greater than that which exists on the date the local exchange telecommunications company files its petition.

(8) The provisions described in s. 364.051(6) and (7) shall apply to any local exchange telecommunications company with 1 million or less lines in service that has reduced its intrastate switched network access rates to a level equal to the company's interstate switched network access rates in effect on January 1, 2003.

Section 7. Subsections (2), (3), and (4) of section 364.052, Florida Statutes, are amended to read:

364.052 Regulatory methods for small local exchange telecommunications companies.—

(2) A small local exchange telecommunications company shall remain under rate base, rate of return regulation until the company elects to become subject to s. 364.051, or January 1, 2001, whichever occurs first. A company subject to this section, electing to be regulated pursuant to s. 364.051, will have any overearnings attributable to a period prior to the date on which the company makes the election subject to refund or other disposition by the commission. Small local exchange telecommunications companies not electing the price regulation provided for under s. 364.051 shall also be regulated pursuant to ss. 364.03, 364.035(1) and (2), 364.05, and 364.055 and other provisions necessary for rate base, rate of return regulation. If a small local exchange telecommunications company has not elected to be regulated under s. 364.051, by January 1, 2001, the company shall remain under rate base, rate of return regulation until such time as a certificated ~~alternative~~ competitive local exchange company provides basic local telecommunications service in the company's territory. At such time, the small local exchange telecommunications company shall be subject to s. 364.051.

(a) The commission shall establish, by rule, ranges of basic factors for lives and salvage values to be used in developing depreciation rates for companies subject to this section. Companies shall have the option of using basic factors within the established ranges or of filing depreciation studies.

(b) The commission shall adopt, by rule, streamlined procedures for regulating companies subject to this section. These procedures shall minimize

the burdens of regulation with regard to audits, investigations, service standards, cost studies, reports, and other matters, and the commission shall establish, by rule, only those procedures that are cost-justified and are in the public interest so that universal service may be promoted. Upon petition filed in this rulemaking proceeding, the commission shall review and may approve any regulations unique to the specific circumstances of a company subject to this section.

(3) A company subject to this section may at any time after January 1, 1996, elect to be regulated pursuant to s. 364.051. If such a company so elects or provides cable television programming services directly or as video dial tone applications authorized under 47 U.S.C. s. 214, except as provided for in compliance with part II of this chapter, a certificated competitive alternative local exchange company may provide local exchange telecommunications services within the territory of the electing company.

(4) Any competitive alternative local exchange telecommunications company competing within the territory of any small local exchange telecommunications company must do so on an exchange-wide basis for the provision of flat-rated, switched residential and business local exchange telecommunications services in all exchanges in which they elect to serve, unless the commission determines otherwise. The competitive alternative local exchange telecommunications company may petition and the commission has the authority to determine that it is in the public interest for a competitive an alternative local exchange telecommunications company to service a geographic territory that is less than an entire exchange.

Section 8. Subsection (3) is added to section 364.058, Florida Statutes, to read:

364.058 Limited proceedings.—

(3) 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 implement this subsection.

Section 9. Section 364.059, Florida Statutes, is created 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.

(b) The petitioner shall provide such showing as is required by law for a temporary injunction, and the local exchange telecommunications company shall have 7 days within which to respond to the petition.

(c) This section does not prevent the local exchange telecommunications company from raising any affirmative defenses provided by law.

(d) A stay may not be granted until the commission has voted on the petition after an opportunity for oral argument.

(e) If the commission grants a stay, the stay may not exceed 45 days, and the commission shall make a determination on the merits within the 45-day period, unless the commission extends this time period, not to exceed 15 days, based on a delay in the availability of relevant cost studies and supporting documents.

(f) If the commission denies a stay, this section does not prevent the petitioner from filing allegations of anticompetitive price reductions as otherwise provided by law.

(g) The petitioner shall have the burden of proof that a statutory violation has occurred, but the commission and the petitioner shall have access, pursuant to s. 364.183, to the local exchange telecommunications company's relevant cost studies and supporting documents.

(h) The commission shall reject any petition within 15 days after filing if the local exchange telecommunications company challenges the petition and the commission determines that the petition on its face alleges the same violations and the same facts that have previously been resolved against the petitioner.

(2) For purposes of carrying out the procedures set forth in subsection (1), the commission shall establish an objective benchmark, such as a price or cost floor, by which the commission may determine whether a requested stay of a basic local telecommunications service price reduction is warranted. Such a benchmark must be based upon generally accepted economic costing and pricing principles and judicial or regulatory costing and pricing precedent. The commission shall also establish the criteria for determining on the merits whether the basic local telecommunications service price reduction is in fact anticompetitive. Such criteria must be based upon generally accepted economic competitive costing and pricing principles and judicial or regulatory precedent for detecting the presence of anticompetitive pricing. However, the commission may not establish benchmarks or criteria that are inconsistent with or interfere with the competitive pricing conduct permitted by existing law. The commission shall establish the benchmark and criteria by rule, which rule adoption proceeding shall commence no earlier than January 1, 2005, and a final order shall issue within 120 days after

commencement. Such benchmarks and criteria must be available when subsection (1) becomes effective. If s. 364.164(8) becomes operative, the commission shall immediately commence establishment of the benchmark and criteria required for the procedures set forth in subsection (1) and this subsection, but nothing herein shall prevent or delay a local exchange telecommunications company from making and implementing the election provided for in s. 364.051(6).

Section 10. Subsection (3) is added to section 364.10, Florida Statutes, to read:

364.10 Undue advantage to person or locality prohibited; exception.—

(3)(a) Effective September 1, 2003, any local exchange telecommunications company authorized by the commission to reduce its switched network access rate pursuant to s. 364.164 shall have tariffed and shall provide Lifeline service to any otherwise eligible customer or potential customer who meets an income eligibility test at 125 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 a 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 local exchange telecommunications company 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 such persons of their eligibility for Lifeline, and each state agency providing such 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) By December 31, 2003, 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 commission, and telecommunications companies providing Lifeline services, the development of procedures to promote Lifeline participation.

(e) 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.

Section 11. Subsection (2), paragraph (a) of subsection (3), and subsection (5) of section 364.16, Florida Statutes, are amended to read:

364.16 Connection of lines and transfers; local interconnection; telephone number portability.—

(2) Each competitive ~~alternative~~ 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 ~~alternative~~ 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.

(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 ~~alternative~~ local exchange telecommunications company pursuant to reasonable rates and conditions mutually agreed to which do not discriminate between similarly situated companies.

Section 12. Subsections (3) and (4) of section 364.161, Florida Statutes, are amended to read:

364.161 Unbundling and resale.—

(3) Only after a competitive ~~an alternative~~ local exchange telecommunications company has been determined to be a carrier of last resort shall such company, upon request by another telecommunications provider, be required, for purposes of resale, to unbundle its local exchange services, network features, functions and capabilities, including its local loop, to the extent such unbundling is technically and economically feasible. The parties shall negotiate the terms, conditions, and prices of any feasible unbundling request. If the parties cannot reach a satisfactory resolution within 60 days, either party may petition the commission to arbitrate the dispute and the commission shall make a determination within 120 days. The prices shall not be below cost.

(4) A local exchange telecommunications company shall provide unbundled network elements, services for resale, requested repairs, and necessary support services in a timely manner. The Public Service Commission shall maintain a file of all complaints by competitive alternative local exchange telecommunications companies against local exchange telecommunications companies regarding timeliness and adequacy of service. This information, including how and when each complaint was resolved, shall be included with the commission's annual report to the Legislature on competition.

Section 13. Subsection (1) of section 364.162, Florida Statutes, is amended to read:

364.162 Negotiated prices for interconnection and for the resale of services and facilities; commission rate setting.—

(1) A competitive ~~An alternative~~ local exchange telecommunications company shall have 60 days from the date it is certificated to negotiate with a local exchange telecommunications company mutually acceptable prices, terms, and conditions of interconnection and for the resale of services and facilities. If a negotiated price is not established after 60 days, either party may petition the commission to establish nondiscriminatory rates, terms, and conditions of interconnection and for the resale of services and facilities. The commission shall have 120 days to make a determination after proceeding as required by subsection (2). Whether set by negotiation or by the commission, interconnection and resale prices, rates, terms, and conditions shall be filed with the commission before their effective date. The commission shall have the authority to arbitrate any dispute regarding interpretation of interconnection or resale prices and terms and conditions.

Section 14. 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 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.

~~(1) Effective January 1, 1999, the rates for switched network access services of each company subject to this section shall be capped at the rates in effect on January 1, 1999, and shall remain capped until January 1, 2001. Upon the date of filing its election with the commission, the network access service rates of a company that elects to become subject to this section shall be capped at the rates in effect on that date and shall remain capped for 5 years.~~

~~(1)(2) After the termination of the caps imposed on rates by subsection (1) and after a local exchange telecommunications company's intrastate switched network access rates are reduced to or below ~~reach~~ parity, as~~

~~defined in s. 364.164(5), the company's intrastate switched network access rates shall be, and shall remain, capped for 3 years with its interstate switched access rates, a company subject to this section may, on 30 days' notice, annually adjust any specific network access service rate in an amount not to exceed the cumulative change in inflation experienced after the date of the last adjustment, provided, however, that no such adjustment shall ever exceed 3 percent annually of the then-current prices. Inflation shall be measured by the changes in Gross Domestic Product Fixed 1987 Weights Price Index, or successor fixed weight price index, published in the Survey of Current Business, or successor publication, by the United States Department of Commerce.~~

~~(3) After the termination of the caps imposed on rates by subsection (1), a company subject to this section may, at any time, petition the commission for a network access service rate change to recover the cost of governmentally mandated projects or programs or an increase in federal or state income tax incurred after that date. The costs and expenses of the government program or project required in part II of this chapter shall not be recovered under this subsection unless such costs and expenses are incurred in the absence of a bid and subject to carrier of last resort obligations as provided for in part II of this chapter. With respect to governmentally mandated projects and programs, such petition shall be acted upon no later than 90 days after the date of filing. A company subject to this section shall show the commission that the cost of a project or program is not recoverable either from the government mandating the project or program or from the beneficiaries of the project or program through user fees or other new revenue sources from the project or program, and to the extent that cost decreases resulting from the project or program are reflected as an offset to cost increases. A company subject to this section shall decrease its network access rates by amounts that reflect any federal or state income tax reduction. Nothing contained in this section shall allow any revisions in the rates, terms, and conditions for commercial mobile radio service access, which revisions are inconsistent with the requirements or methodologies of the Federal Communications Commission.~~

~~(4) A company subject to this section may choose to implement all or a portion of a rate increase allowed for network access service by subsections (1), (2), and (3). Notwithstanding subsections (1), (2), and (3), a company subject to this section may choose to decrease network service rates at any time, and decreased rates shall become effective upon 7 days' notice.~~

~~(5) Company-proposed changes to the terms and conditions for existing network access services in accordance with subsections (1), (2), (3), and (4) shall be presumed valid and become effective upon 15 days' notice. Company-proposed rate reductions shall become effective upon 7 days' notice. Rate increases made by the local exchange telecommunications company shall be presumed valid and become effective on the date specified in the tariff, but in no event earlier than 30 days after the filing of such tariff. The commission shall have continuing regulatory oversight of local exchange telecommunications company-provided network access services for purposes of determining the correctness of any price increase resulting from the application of the inflation index and making any necessary adjustments, establish-~~

ing reasonable service quality criteria, and assuring resolution of service complaints. No later than 30 days after the filing of such tariff, the commission may, with respect to determining the correctness of any price increase, vote, without hearing, the local exchange telecommunications company to hold subject to refund all revenues collected under the rate increase. Within 60 days after such order, the commission must make a determination either compelling a refund of all or part of such revenues or releasing them from such requirement.

~~(2)(6)~~ Any local exchange telecommunications company with more than 100,000, but fewer than 3 million, basic local telecommunications service access lines in service on July 1, 1995, shall reduce its intrastate switched access rates by 5 percent on July 1, 1998, and by 10 percent on October 1, 1998. Any intrastate interexchange telecommunications company whose intrastate switched network access rate is reduced as a result of the rate adjustments decreases made by a local exchange telecommunications company in accordance with s. 364.164 this subsection shall decrease its intrastate long distance revenues rates by the amount necessary to return the benefits of such reduction to both its residential and business customers but shall not reduce per minute intra-LATA toll rates by a percentage greater than the per minute intrastate switched access rate reductions required by this act. The intrastate interexchange telecommunications company carrier may determine the specific intrastate rates to be decreased, provided that residential and business customers benefit from the rate decreases. Any in-state connection fee or similarly named fee shall be eliminated by July 1, 2006, provided that the timetable determined pursuant to s. 364.164(1) reduces intrastate switched network access rates in an amount that results in the elimination of such fee in a revenue-neutral manner. The tariff changes, if any, made by the intrastate interexchange telecommunications company to carry out the requirements of this subsection shall be presumed valid and shall become effective on 1 day's notice.

~~(7)~~ Telecommunications company intrastate switched access and customer long distance rate reductions shall become effective on October 1 of each relevant year. Rate decreases proposed in tariff revisions filed by the telecommunications companies with the commission shall be presumed valid and become effective on October 1 of each relevant year.

~~(8)~~ No later than 30 days after the filing of such tariff, the commission may, with respect to determining the correctness of any rate decrease, vote, without hearing, the telecommunications company to hold subject to refund all intrastate switched access or customer long distance rate revenues collected after the rate decrease. Within 60 days after such order, the commission must make a determination either compelling a refund of the appropriate part of such revenues or releasing all such revenues from such requirement.

~~(3)(9)~~ The commission shall have continuing regulatory oversight of intrastate switched network access and customer long distance rates for purposes of determining the correctness of any rate decrease by a telecommunications company resulting from the application of s. 364.164 this section and making any necessary adjustments to those rates, establishing reasonable service quality criteria, and assuring resolution of service complaints.

Section 15. Section 364.164, Florida Statutes, is created to read:

364.164 Competitive market enhancement.—

(1) Each local exchange telecommunications company may, after July 1, 2003, petition the commission to reduce its intrastate switched network access rate in a revenue-neutral manner. The commission shall issue its final order granting or denying any petition filed pursuant to this section within 90 days. In reaching its decision, the commission shall consider whether granting the petition will:

(a) Remove current support for basic local telecommunications services that prevents the creation of a more attractive competitive local exchange market for the benefit of residential consumers.

(b) Induce enhanced market entry.

(c) Require intrastate switched network access rate reductions to parity over a period of not less than 2 years or more than 4 years.

(d) Be revenue neutral as defined in subsection (7) within the revenue category defined in subsection (2).

(2) If the commission grants the local exchange telecommunications company's petition, the local exchange telecommunications company is authorized, the requirements of s. 364.051(3) notwithstanding, to immediately implement a revenue category mechanism consisting of basic local telecommunications service revenues and intrastate switched network access revenues to achieve revenue neutrality. The local exchange telecommunications company shall thereafter, on 45 days' notice, adjust the various prices and rates of the services within its revenue category authorized by this section once in any 12-month period in a revenue-neutral manner. An adjustment in rates may not be offset entirely by the company's basic monthly recurring rate. All annual rate adjustments within the revenue category established pursuant to this section must be implemented simultaneously and must be revenue neutral. The commission shall, within 45 days after the rate adjustment filing, issue a final order confirming compliance with this section, and such an order shall be final for all purposes.

(3) Any filing under this section must be based on the company's most recent 12 months' pricing units in accordance with subsection (7) for any service included in the revenue category established under this section. The commission shall have the authority only to verify the pricing units for the purpose of ensuring that the company's specific adjustments, as authorized by this section, make the revenue category revenue neutral for each filing. Any discovery or information requests under this section must be limited to a verification of historical pricing units necessary to fulfill the commission's specific responsibilities under this section of ensuring that the company's rate adjustments make the revenue category revenue neutral for each annual filing.

(4) This section does not affect the local exchange telecommunications company's exemptions pursuant to s. 364.051(1)(c) or authorize any local

exchange telecommunications company to increase the cost of local exchange services to any person providing services under s. 364.3375.

(5) As used in this section, the term “parity” means that the local exchange telecommunications company’s intrastate switched network access rate is equal to its interstate switched network access rate in effect on January 1, 2003, if the company has more than 1 million access lines in service. If the company has 1 million or less access lines in service, the term “parity” means that the company’s intrastate switched network access rate is equal to 8 cents per minute. This section does not prevent the company from making further reductions in its intrastate switched network access rate, within the revenue category established in this section, below parity on a revenue-neutral basis, or from making other revenue-neutral rate adjustments within this category.

(6) As used in this section, the term “intrastate switched network access rate” means the composite of the originating and terminating network access rate for carrier common line, local channel/entrance facility, switched common transport, access tandem switching, interconnection charge, signaling, information surcharge, and local switching.

(7) As used in this section, the term “revenue neutral” means that the total revenue within the revenue category established pursuant to this section remains the same before and after the local exchange telecommunications company implements any rate adjustments under this section. Calculation of revenue received from each service before the implementation of any rate adjustment must be made by multiplying the then-current rate for each service by the most recent 12 months’ actual pricing units for each service within the category, without any adjustments to the number of pricing units. Calculation of revenue for each service to be received after implementation of rate adjustments must be made by multiplying the rate to be applicable for each service by the most recent 12 months’ actual pricing units for each service within the category, without any adjustments to the number of pricing units. Billing units associated with pay telephone access lines and Lifeline service may not be included in any calculation under this subsection.

(8) If either the Federal Communications Commission or the commission issues a final order determining that voice-over-internet protocol service or a functionally equivalent service shall not be subject to the payment of switched network access rates pursuant to a local exchange telecommunications company tariff or interconnection agreement or other law, the provisions of subsection (2) shall immediately become operative as if the commission had granted a petition pursuant to subsection (1). Any local exchange telecommunications company subject to this section shall be authorized to reduce its switched network access rates to the company’s authorized local reciprocal compensation rates in a revenue-neutral manner, pursuant to subsections (2)-(7), in the shortest remaining timeframe allowable under this section.

Section 16. Section 364.337, Florida Statutes, is amended to read:

364.337 Competitive Alternate local exchange telecommunications companies; intrastate interexchange telecommunications services; certification.—

(1) Upon this act becoming a law, a party may file an application for a certificate as a competitive an alternative local exchange telecommunications company before January 1, 1996, and the commission shall conduct its review of the application and take all actions necessary to process the application. However, an application shall become effective no sooner than January 1, 1996. The commission shall grant a certificate of authority to provide competitive alternative local exchange 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. A competitive ~~In no event may an alternative~~ local exchange telecommunications company may not offer basic local telecommunications services within the territory served by a company subject to s. 364.052 prior to January 1, 2001, unless the small local exchange telecommunications company elects to be regulated under s. 364.051 or provides cable television programming services directly or as video dial tone applications authorized under 47 U.S.C. s. 214, except as provided for in compliance with part II. It is the intent of the Legislature that the commission act expeditiously to grant certificates of authority under this section and that the grant of certificates not be affected by the application of any criteria other than that specifically enumerated in this subsection.

(2) Rules adopted by the commission governing the provision of competitive alternative local exchange telecommunications service shall be consistent with s. 364.01. The basic local telecommunications service provided by a competitive an alternative local exchange telecommunications company must include access to operator services, “911” services, and relay services for the hearing impaired. A competitive ~~An alternative~~ local exchange telecommunications company’s “911” service shall be provided at a level equivalent to that provided by the local exchange telecommunications company serving the same area. There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed. A certificated competitive alternative local exchange telecommunications company may petition the commission for a waiver of some or all of the requirements of this chapter, except ss. 364.16, 364.336, and subsections (1) and (5). The commission may grant such petition if determined to be in the public interest. Competitive ~~In no event shall alternative~~ local exchange telecommunications companies are not be subject to the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, 364.33, and 364.3381.

(3) The commission shall grant a certificate of authority to provide intrastate interexchange 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.

(4) Rules adopted by the commission governing the provision of intrastate interexchange telecommunications service must ~~shall~~ be consistent

with s. 364.01. A certificated intrastate interexchange telecommunications company may petition the commission for a waiver for some or all of the requirements of this chapter, except s. 364.16, s. 364.335(3), or subsection (5). The commission may grant such petition if determined to be in the public interest. ~~In no event shall~~ Intrastate interexchange telecommunications companies ~~are not be~~ subject to the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, and 364.3381.

(5) The commission shall have continuing regulatory oversight over the provision of basic local exchange telecommunications service provided by a certificated competitive ~~alternative~~ local exchange telecommunications company or a certificated alternative access vendor for purposes of establishing reasonable service quality criteria, assuring resolution of service complaints, and ensuring the fair treatment of all telecommunications providers in the telecommunications marketplace.

(6)(a) The Legislature finds the provision of alternative access vendor services to be in the public interest, and the commission may authorize the provision of such service. For the purposes of this section, effective January 1, 1996, the term “alternative access vendor services” means the provision of private line service between an entity and facilities at another location, whether owned by the entity or an unaffiliated entity or access service between an end user and an interexchange carrier by other than a local exchange telecommunications company. For purposes of this chapter, the term “private line service” means any dedicated point-to-point or point-to-multipoint service for the transmission of any public telecommunications service.

(b) ~~A No person may not shall~~ provide alternative access vendor services without first obtaining a certificate from the commission. Any certificated alternative access vendor as of the date this act becomes a law wishing to provide alternative local exchange telecommunications service in addition to the services authorized in its certificate may do so, effective January 1, 1996, upon furnishing written notice to the commission.

Section 17. Subsection (1) of section 364.3376, Florida Statutes, is amended to read:

364.3376 Operator services.—

(1)(a) ~~A No person may not shall~~ provide operator services as defined in s. 364.02 without first obtaining from the commission a certificate of public convenience and necessity as either an operator services provider ~~or an interexchange telecommunications company~~.

(b) ~~The provisions of~~ This section does shall not apply to operator services provided by a local exchange telecommunications company or by an intra-state interexchange telecommunications company, except as required by the commission in the public interest.

Section 18. Subsection (1) of section 364.502, Florida Statutes, is amended to read:

364.502 Video programming; capacity for public use.—

(1) Each local exchange telecommunications company or competitive alternative local exchange telecommunications company which provides video programming shall, prior to providing such programming, file with the commission a designation of reserve capacity for public, educational, or governmental use. The commission shall review the filed designation to determine whether such designation ensures that public education and public information programming are adequately available to the customers of such telecommunications company. The commission shall consider the following factors in determining whether the filed designation complies with the requirements of this chapter:

- (a) Reservation and designation requirements provided by federal law, if any.
- (b) The level of demand for such programming in a given service area.
- (c) The barriers to providing such programming in the service area.
- (d) The cost and availability of such programming in the service area.
- (e) Other factors which the commission deems appropriate.

Section 19. Paragraph (i) of subsection (3) of section 365.172, Florida Statutes, is amended to read:

365.172 Wireless emergency telephone number “E911.”—

(3) DEFINITIONS.—As used in this section and ss. 365.173 and 365.174, the term:

(i) “Local exchange carrier” means ~~a~~ an “competitive alternative local exchange telecommunications company” or a “local exchange telecommunications company” as defined in s. 364.02.

Section 20. 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(19), 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 the Florida Space Authority 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(13)~~, 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. However, property that is being used to provide such telecommunications services on or before October 1, 1997, shall remain exempt, but such exemption expires October 1, 2004.

Section 21. Paragraph (b) of subsection (1) of section 199.183, Florida Statutes, is amended to read:

199.183 Taxpayers exempt from annual and 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(13)~~, and for which a certificate is required under chapter 364, when such 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 such 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 such telecommunications services provided by a public hospital, are exempt from taxation under this chapter.

Section 22. 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(13)~~, 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 23. 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(12)~~.

Section 24. 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)~~ ~~364.02(12)~~ 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 25. Subsection (4) of section 364.602, Florida Statutes, is amended to read:

364.602 Definitions.—For purposes of this part:

(4) “Originating party” means any person, firm, corporation, or other entity, including a telecommunications company or a billing clearinghouse, that provides any telecommunications service or information service to a customer or bills a customer through a billing party, except the term “originating party” does not include any entity specifically exempted from the definition of “telecommunications company” as provided in s. 364.02(13) ~~s. 364.02(12)~~.

Section 26. 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(12)~~, 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 27. This act shall take effect upon becoming a law.

Approved by the Governor May 23, 2003.

Filed in Office Secretary of State May 23, 2003.