

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1903 Regulation of Telecommunications
SPONSOR(S): Committee on Business Regulation
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Business Regulation</u>	<u>30 Y, 1 N</u>	<u>Holt</u>	<u>Liepshutz</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Chapter 364, Florida Statutes, provides the guiding principles by which the Florida Public Service Commission (FPSC) regulates the telecommunications industry. The proposed legislation substantially amends the chapter and creates several new sections. The bill allows the development of Voice over Internet Protocol (VoIP) by exempting the emerging technology from unnecessary regulations. Exemptions from local government regulation for broadband or information services are also included in the bill. The bill provides for the elimination of some regulatory oversight relating to providers of long distance (interexchange carriers or IXCs). The comprehensive approach of the bill is to create a regulatory structure that places the FPSC in the lead role of determining issues relating to access charges and the application of appropriate regulatory review. The proposal takes a three-phase approach to furthering the development of a more competitive telecommunications market in Florida.

The bill provides in the initial phase for a competitive market enhancement process which consists of a methodology for local exchange carriers (LECs) to reduce network access charges applicable to intrastate long distance in a revenue neutral manner. The reduction of access rates is accomplished in a revenue neutral manner by offsetting the reductions with increases in recurring and nonrecurring customer charges for basic service. The process authorizes intrastate switched network access rate reductions that achieve parity with corresponding interstate access rates over a 2 to 4 year period. In no event shall any adjustment in rates be offset entirely by the LEC's basic monthly recurring rate. The FPSC shall within 45 days after the rate adjustment filing confirm the revenue neutrality for each annual filing. The bill further provides for acceleration of the process should Voice over Internet Protocol (VoIP) be determined exempt from switched network access charges.

The bill provides upon a LEC reaching parity, in the second phase, it may elect to have its basic service treated the same as its non-basic services. Also upon its election, a LEC's service quality requirements will thereafter be no greater than the service quality requirements imposed on a CLEC. However, if within 120 days the FPSC determines that a change in service quality is premature, the bill gives the FPSC the authority to make adjustments.

In the last phase, the bill provides that a LEC may elect to petition, upon meeting certain criteria, to have its retail services at a level no greater than that imposed on CLECs. The FPSC has 9 months to act on the petition. This provision may be initiated at any time after the LEC has reduced access charges to parity level and has elected to have basic services treated as non-basic services.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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Also upon a LEC reaching parity or below, two other major things occur: 1) The bill caps the access rates at that level for three years and 2) It requires IXCs whose access expenses go down as a result of the access reduction to reduce their intrastate revenues by the amount necessary to flow-through rate reductions to both residential and business customers. Further the bill provides for the elimination of any in-state connection fee, or similarly named fee by July 1 2006, provided it can be done in a revenue neutral manner.

The bill extends the LEC's "universal service" and "carrier of last resort" obligations until January 1, 2009. The bill expands Lifeline eligibility to 125 percent of the federal poverty income level. The Office of Public Counsel will be responsible for claims submitted by customers for eligibility under the income test.

The bill does not appear to have a fiscal impact on state or local governments,

The act shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND AND CURRENT SITUATION:

Prior to 1995, Florida Public Service Commission (FPSC) utilized rate base regulation or rate of return regulation as the method for regulating telephone utilities. This method of regulation established the revenue requirement that a telephone company needed to operate. Once the revenue requirement was determined, the FPSC would then approve a rate structure and rates. The rates that the FPSC established were designed to afford an opportunity for the telephone company to earn a reasonable rate of return.

In 1995, the Legislature enacted chapter 95-402, Laws of Florida. This rewrite of chapter 364, Florida Statutes, relating to telecommunications companies, opened up the local telecommunications market to competition. The changes represented the participation of potential competitors, such as cable and long distance companies, the existing local exchange companies, consumers, the FPSC, the Attorney General, and Governor to ensure that competition in the local exchange market was fair, workable, and resulted in a benefit to the state. The FPSC has the authority in chapter 364, Florida Statutes, to exercise exclusive jurisdiction in relation to telecommunications companies.

That 1995 legislation primarily did these things: 1) It found competition for the provision of local exchange service to be in the public interest. Through the legislative findings outlined in section 364.01, Florida Statutes, the local exchange market was opened to competition effective January 1, 1996. To achieve those ends, the FPSC was required to certificate new local exchange service providers and impose the necessary standards to ensure consumer protection without impeding competition. 2) It allowed existing incumbent local exchange telecommunications companies (LECs) to elect price regulation, rather than rate of return regulation, effective January 1, 1996, or when an alternative local exchange telecommunications company (ALEC) was certificated to provide service in a LEC's territory, whichever was later.

To implement these changes, provisions were included to move from a monopoly environment to a competitive marketplace. Some of the major provisions used to accomplish these goals:

- Required interconnection between local exchange service providers and unbundling and resale of incumbent companies' facilities and services with the terms to be negotiated by the parties, or set by the FPSC, if the parties could not agree. These provisions allowed the new companies to freely access and use the telecommunications networks that were already in place.
- Established a regulatory scheme for price regulation of services provided by a LEC, including

- capping the basic services prices for LECs with more than 3 million access lines for 5 years, while basic service prices for LECs with less than 3 million access lines were capped for 3 years.
- providing a mechanism for the FPSC to determine if sufficient competition existed on an exchange by exchange basis to lift the caps on basic service after 3 years for companies with less than 3 million access lines. The caps were to be continued for an additional 2 years if it was determined that there was not sufficient competition. Upon the termination of the caps, prices could only be increased based on an inflation index.
- capping prices on multi-line business services and services provided to the SUNCOM network and limiting any increases in the rates for non-basic services (examples of non-basic services are intraLATA toll calls, call waiting, call forwarding, and caller I.D.)
- prohibiting local measured service for basic residential and business services.

Under the 1995 revisions, the rates for basic local service were capped at the rates in effect on July 1, 1995 until January 1, 1999 for all companies except BellSouth which was capped until January 1, 2001. In addition to price regulation, the law contained numerous provisions designed to ensure that consumers benefited from competition and were protected from any potentially negative effects of the transition to a competitive marketplace. These consumer protections provisions included:

- requiring that universal service be maintained. LECs were to remain the providers of last resort for 4 years, and a permanent universal service mechanism was to be adopted by the Legislature prior to that time;
- requiring certification of ALECs and providing the FPSC with jurisdiction over the quality of service for new providers;
- requiring companies that are the local service providers of last resort to provide Lifeline Assistance plans to eligible low-income customers;
- protecting rural customers by ensuring that the LECs are not harmed by competition in a way that would detrimentally affect their customers and rates for basic local service.

The FPSC retained significant regulatory authority and oversight jurisdiction under the chapter. The FPSC responsibilities, in addition to those already discussed included:

- oversight of service quality and service complaints for all LECs.
- oversight of LECs rates to ensure that the prices for non-basic services were not subsidized with revenue from basic services.

That 1995 legislation also contained provisions that ensured the tax impact was revenue neutral for local taxes, gross receipts taxes, and sales taxes. That chapter rewrite laid the foundation which was to enable Florida to move into the Information Age.

According to the FPSC, the federal Telecommunications Act of 1996 (the Act) established the framework for ALECs to be able to enter the market for provisioning local telephone service. Florida was already a step ahead with the 1995 passage of amendments to Chapter 364, Florida Statutes, which provided for such competition. The Federal Communications Commission's (FCC) Local Competition Order specified that opening the local exchange and exchange access markets to competition was intended to "pave the way for enhanced competition in all telecommunications

markets.”¹ Additionally, the opening of telecommunications markets to all providers was expected to eventually erase traditional industry distinctions. In fact, the opening of the market has allowed ALECs and other less traditional providers to enter the local market using various technologies including wireless, cable, Digital Subscriber Line (DSL), and Voice over Internet Protocol (VoIP). These providers are now challenging the traditional wireline providers for market share.

According to data summarized by the FPSC, the Act’s creation of a pro-competitive, deregulatory national policy framework established the goals of promoting competition and reducing regulation in its sight. In order to secure lower prices, higher quality services for American telecommunications consumers, and encourage rapid deployment of new telecommunications technologies, the FCC implemented a trilogy of actions. The first action called for access charge reform. Interstate implicit support for universal service was identified for removal from interstate access charges, and support was provided through an explicit interstate universal service support mechanism. Access charges were to be transitioned to reflect cost based rates. The second part of the trilogy involved local competition/interconnection. This measure sought to remove the legal, regulatory, economic, and operational barriers to telecommunications competition. It also attempted to provide entrants into the local market with the opportunity to compete for consumers in the local markets by construction of new facilities, leasing unbundled network elements, or reselling telecommunications services. Universal service was the last component of the trilogy. The Act took steps to ensure that support mechanisms that were necessary to maintain local rates at affordable levels were protected and advanced in the face of competition, and to the extent possible, developed universal support mechanisms that were explicit, rather than implicit.

Currently, section 364.163, Florida Statutes, provides for network access services. Under this section, “network access service” is defined as “any service provided by a local exchange telecommunications company to a telecommunications company certificated under chapter 364 or licensed by the FCC to access the local exchange telecommunications network.” It does not include local interconnection arrangements, provided in section 364.16, Florida Statutes, or the resale arrangements provided in section 364.161, Florida Statutes. Each local exchange telecommunications company subject to section 364.051, Florida Statutes, (price regulation) is required to maintain tariffs² with the FPSC that contain the terms, conditions, and rates for each of its network access services.

An “alternative local exchange telecommunications company” is defined by section 364.02(1), Florida Statutes, as any company certificated by the FPSC to provide local exchange telecommunications service in this state after July 1, 1995.

A “local exchange telecommunications company” is defined by section 364.02(6), Florida Statutes, as any company certificated by the FPSC to provide local exchange telecommunications service in this state before June 30, 1995.

A “telecommunications company” is defined by section 364.02(12), Florida Statutes, as:

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 . . .

Companies specifically excluded from the definition include: commercial mobile radio service providers, facsimile transmission services, private computer data networks not offering services to the public for hire, and cable television companies providing cable service as defined in 47 U.S.C. section 522.

¹ FCC 96-325, CC Docket No. 96-98, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, Paragraph 4.

² A document filed with a regulatory body by a common carrier which defines services offered, establishes the rate customers will pay, and states general obligations of the common carrier and customer.

Switched network access rates refer to the charges for network access that are paid by providers of long distance telephone service (interexchange carriers or IXCs) to the LECs for connection to their network and facilities. The charges are for originating a call and terminating a call for both intrastate and interstate calls. The FCC has jurisdiction over interstate telecommunication services and the FPSC has jurisdiction over intrastate telecommunication services. In Florida the intrastate charge is a per-minute charge and the interstate charge established by the FCC is both a per-minute charge and a per line charge.

There are currently 10 LECs operating in Florida. They are: BellSouth Telecommunications, Inc., Verizon (merger of GTE and Bell Atlantic), Sprint-Florida Inc., ALLTEL Florida, Inc., GT Com (formerly St. Joseph Telephone & Telegraph Company, Florida Telephone Company, Inc., and Gulf Telephone Company), TDS/Quincy Telephone Company, Smart City Telecom, Northeast Florida Telephone Company, Inc., Frontier Communications of the South, Inc., and ITS Telecommunications Systems, Inc. (formerly Indiantown Telephone System, Inc.).

The following is the number of total access lines for the Florida LECs as of December 2002:

BellSouth	5,532,534	Smart City Telecom	17,753
Verizon	2,336,571	TDS/Quincy	14,351
Sprint	2,166,374	NE Florida	10,285
ALLTEL	94,782	Frontier	4,660
GT Com	52,191	ITS	3,903

The number of residence and business basic local telecommunications access lines as of December 2002 for the ILECs with more than 1 million access lines is as follows:

BellSouth	4,098,559 - residence and - 1,434,015 - business
Sprint	1,528,371 - residence and - 625,116 - business
Verizon	1,666,058 - residence and - 655,352 - business

Basic local telecommunications service is defined by s. 364.02(2), Florida Statutes, as:

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.

According to the FPSC, the rate group range for LECS as of April 2003, for basic local telecommunications service in Florida is as follows:

	Lowest Rate Group	Highest Rate Group
BellSouth	\$7.57	\$11.04
Verizon	\$9.72	\$12.06
Sprint	\$7.63	\$11.48

ALLTEL	\$9.53	\$11.21
Frontier	\$10.85	\$10.95
GT Com	\$6.39	\$9.28
ITS	\$9.03	\$9.03
Northeast	\$9.00	\$9.00
Quincy	\$12.95	\$12.95
Smart City Telecom	\$7.35	\$11.47

Basic local telecommunication service is subject to price regulation to the extent provided in section 364.051, Florida Statutes. Section 364.051(1), Florida Statutes, allows LECs to choose "price regulation" instead of "rate base, rate of return" regulation. Subsection (1)(c) provides that each company subject to this section is exempt from rate base, rate of return regulation, and the requirements of several sections dealing with rates and revenues. The rates for basic local telecommunications service are capped for LECs that choose price regulation under this section. The rates were capped at the rates in effect on July 1, 1995, and they could not be increased before January 1, 1999, except for BellSouth. The rates for BellSouth could not be increased before January 1, 2001. Sprint, Verizon and BellSouth raised their rates under this section.

Subsection (5) of section 364.051, Florida Statutes, allows any LEC that believes circumstances have changed sufficiently enough to justify a rate increase, to petition the FPSC for an increase. The FPSC can grant the petition only after an opportunity for a hearing and a compelling showing of changed circumstances.

Subsection (1) of section 364.163, Florida Statutes, provides that the rates for switched network access services for each LEC shall be capped at the rates in effect on July 1, 1999, and shall remain capped until January 1, 2001. Upon the date of filing its election under this section (for price regulation under section 364.051, F.S.), the network access rates of the company are capped at the rates in effect on that date and remain capped for five years. According to the FPSC, all LECs, except Frontier Communications of the South, Inc., have elected price regulation and, therefore, have capped access rates.

Under subsection (2), of section 364.163, Florida Statutes, after termination of the caps imposed by subsection (1) and after the intrastate switched access rates of a LEC reaches parity with its interstate switched access rates, a company may 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, but no more than three percent annually of the then-current prices. The company must give 30 days' notice of the adjustment. Also, after termination of the caps, subsection (3) of this section allows a company to petition the FPSC to recover the cost of governmentally mandated projects or programs or an increase in federal or state income tax incurred after that date.

Section 364.163(4), F.S., provides that a company may choose to implement all or a portion of a rate increase allowed for network access service under subsections (1), (2), or (3). It also provides that notwithstanding those subsections, a company may decrease its network services rates at any time and the new rates will become effective upon seven days' notice.

Subsection (5) of this section provides that company-proposed changes made in the terms and conditions for existing network access rates pursuant to subsections (1) – (4) are presumed valid and become effective upon 15 days' notice. Company-proposed rate decreases become effective upon

seven days' notice. Rate increases made by a LEC are presumed valid and become effective on the date the tariff is filed, but in no event earlier than 30 days after filing the tariff. The FPSC is given continuing regulatory oversight of LEC-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, establishing reasonable service quality criteria, and assuring resolution of service complaints.

No later than 30 days after the tariff is filed, the FPSC may with respect to determining the correctness of any price increase, vote, without hearing, that the ILEC hold subject to refund all revenues collected under the rate increase. Within 60 days after such order, the FPSC must make a determination either compelling a refund of all or part of such revenues or releasing them from such requirement.

Chapter 98-277, Laws of Florida amended subsection (6) of section 364.163, Florida Statutes, to its present form and required any LEC with more than 100,000, but fewer than 3 million, basic local telecommunications service access lines in service on July 1, 1995, to reduce its intrastate switched access rates by 5 percent on July 1, 1998, and by 10 percent on October 1, 1998. This reduction affected Verizon (then GTE-Florida) and Sprint-Florida. Any IXC whose intrastate switched access rates were reduced as a result of these rate decreases was required to reduce its intrastate long distance rates by the "amount necessary to return the benefits of such reduction to its customers ...". The IXC could not reduce its per minute intra-LATA toll rates by a percentage greater than the per minute intrastate switched access rate reduction. The IXC could determine the specific intrastate rates to be decreased, if residential and business customers benefited from the reductions.

Prior to the changes in 1998, subsection (6) of section 364.163, Florida Statutes, provided that any LEC whose current intrastate switched access rates were higher than its interstate switched access rates in effect on December 31, 1994, shall reduce its intrastate switched access rates by 5 percent each year beginning October 1, 1996. A local exchange telecommunications company was relieved of this requirement if it reduced its rates by a greater percentage by the relevant dates or earlier. The reductions were made pursuant to the PSC Order No. PSC 94-0172-FOF-TL. This order provided, among other things, that BellSouth reduce its access rates.

Section 364.163 (7), Florida Statutes, currently provides that reductions for intrastate-switched access rates and customer long distance rates shall become effective on October 1 of each relevant year. Any rate decreases proposed in tariff revisions filed with the FPSC by the telecommunications companies are presumed valid and become effective October 1 of each relevant year.

Subsection (8) provides that no later than 30 days after the tariff is filed, the FPSC may determine if the rate decrease is correct and order the telecommunications company to hold all intrastate switched access or customer long distance rate revenue collected after the decrease to refund to its customers. Within 60 days, the FPSC must determine whether to order a full or partial refund, or release the revenues.

Subsection (9) of section 364.163, Florida Statutes, gives the FPSC continuing regulatory oversight of intrastate switched access and customer long distance rates for the purpose of "determining the correctness of any rate decrease by a telecommunications company resulting from the application of this section and making any necessary adjustments to those rates, establishing reasonable service quality criteria, and assuring resolution of service complaints."

The following is a comparison of switched access charges for intrastate and interstate rates as of the most recent filings. It includes one minute of originating and one minute of terminating switched access and assumes common transport³.

³ Within the industry, various transport methods exist. Generally the term refers to the aggregation of traffic; the pipe used to connect central offices or wireless centers.

	Intrastate Rate	Interstate Rate
BellSouth	\$0.0460	\$0.0098
Verizon	\$0.0982	\$0.0157
Sprint	\$0.1027	\$0.0140
ALLTEL	\$0.1132	\$0.0224
GT Com (Floralá)	\$0.1522	\$0.0327
(Gulf)	\$0.1214	\$0.0368
(St. Joseph)	\$0.1306	\$0.0327
Smart City Telecom	\$0.1426	\$0.0210
TDS/Quincy	\$0.1282	\$0.0299
NE Florida	\$0.1126	\$0.0323
Frontier	\$0.1040	\$0.0203
ITS	\$0.1128	\$0.0364

According to the FPSC, intrastate network access service rates were set well above the incremental cost of providing the service in order to keep rates for basic local telecommunications service as low as possible and to encourage subscribership. The FCC has addressed the issue of access charges by reducing the per-minute charge and establishing line item flat charges on the telephone bill.

Section 364.025, Florida Statutes, provides for universal service and carrier of last resort requirements. Universal service is a concept that basic telephone service should be available to everyone that desires the service at affordable prices. Subsection (1) defines "universal service" as 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." The carrier of last resort provision requires the LEC to "furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's service territory." This requirement expires on January 1, 2004.

Both the federal and state governments have encouraged telephone subscribership for every household. Section 364.10, Florida Statutes, requires telecommunications companies serving as the carrier of last resort to provide a Lifeline Assistance Plan to qualified residential subscribers. The Lifeline Assistance Plan provides bill credits for qualifying low-income consumers. Consumers who receive assistance through the Temporary Aid to Needy Families program, including the Temporary Cash Assistance and Supplemental Security Income programs, the Food Stamp program, the Federal Public Housing Assistance program, the Low-Income Home Energy Assistance Program, or the Medicaid program are eligible for the plan.

According to data prepared by the Universal Service Administration Corporation, Florida Lifeline subscribership for the end of year 2002 was 142,521. Eligible households in Florida are estimated at 819,112. According to the FPSC, it has taken a number of steps to encourage Lifeline participation. The latest initiative involves working with the Department of Children and Families to create a uniform eligibility verification process. The staff has also been working with the Social Security Administration

on Lifeline. Currently BellSouth has approximately 102,449 Lifeline customers, Sprint has 12,427 and Verizon has approximately 22,616.

The Lifeline Assistance Program provides up to a \$13.00 credit on local monthly phone bills, including a federal credit of \$9.50 and a matching credit from the customer's telephone company of \$3.50.

According to the FPSC, BellSouth executed a settlement agreement with the Office of Public Counsel in a docket before it concerning quality of service issues. The agreement dealt with promoting the Lifeline Assistance Plan. The company agreed to file a tariff to establish an income eligibility test of 125 percent of the Federal poverty guidelines for Lifeline customers. The tariff will augment, not replace, the eligibility guidelines noted above.

EFFECTS OF PROPOSED CHANGES:

Section 1. The popular name of the bill is the "Tele-Competition Innovation and Infrastructure Enhancement Act of 2003." The legislation proposes to further the steps taken in 1995 to create a more competitive marketplace environment in Florida.

Section 2. The bill amends section 364.01, Florida Statutes, to provide a legislative finding that provision of Voice-over-Internet protocol (VoIP) is in the public interest and should be free of unnecessary regulation regardless of the provider. The provision of VoIP is the use of Internet Protocol to provide voice communications. Traditional wireline voice service requires an end to end dedicated circuit to provide analog voice service. Internet protocol allows voice communications to be packetized and routed much like any data traffic over a digital network and a dedicated circuit is not required.

In general, VoIP is the practice of sending digitized phone calls over the Internet like a piece of e-mail, and it is emerging as a key part of the telecom landscape. Currently the regulation of VoIP is in regulatory limbo. The FCC has pending before it at least two petitions dealing with whether it is a "telecommunications service" as defined by Federal law and whether interstate access charges apply. Two summarized usage methods are :1) Computer-to-Computer. The most basic and earliest form of IP voice service involves two parties originating and receiving a call routed over the data network on the computer. 2) Phone-to-Phone. The major developing market for voice over data involves phone-to-phone communications utilizing the Internet as the transmission medium. There is no definition for VoIP contained in section 364.02, Florida Statutes.

Section 3. The bill amends section 364.02, Florida Statutes, definitions as used in the chapter: "Alternative" local exchange telecommunications company (ALEC) is changed to "competitive" local exchange telecommunications company (CLEC). This change conforms the Florida legislative language to the federal and industry standard language used to describe entities that enter the local telecommunications service market to compete against LECs.

The section defines "Intrastate interexchange telecommunications company"⁴ for purposes of distinguishing it from other types of telecommunications carriers and the regulations applicable to them. The definition is also used to facilitate the regulatory provisions of the bill.

The definition for "service" is limited so as not to include VOIP⁵ for purposes of not encumbering the technology with regulation by the FPSC. However, remaining intact is the regulatory status related to

⁴ Exchanges, generally speaking, are local calling areas or one's unlimited calling area. Interexchange means that it is a toll call to which usage charges apply or "long distance." Intrastate interexchange service is service between exchanges within the state and is subject to FPSC jurisdiction. Interexchange can be interstate, in which case federal rules and regulations apply.

⁵ According to the FPSC, since most VoIP calls, as of now, will terminate or originate on a wireline LEC facility access charges would normally apply if it were an interexchange wireline call. At the moment, the big attraction for VoIP is the ability to avoid access charges by using the Internet rather than an IXC. In addition, by using the Internet to transport the

switched network access rates or other intercarrier compensation⁶ to the extent that those charges are implemented by the FCC or the FPSC at some future date.

The term "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 hire⁷ within this state by the use of a telecommunications facility. An exception to this definition is added for intrastate interexchange telecommunications company. However these entities are not exempt from chapters 202, 203, 212, pertaining to taxation. The exclusion is also limited by the continuing application of sections 364.04 (tariff filings), 364.10(3)(a) and (d) (Lifeline), 364.163 (network access charges), 364.285 (penalties), 364.336, regulatory assessment fees) 364.501 ("One-Call underground excavation damage protection), 364.603 (slamming), and 364.604 (cramming), 364.336 (regulatory assessment fees).

Further the intrastate interexchange telecommunications company is required to continue to provide contact information to the FPSC for communication purposes, continue to pay intrastate switched access charges or other intercarrier compensation to the LEC or CLEC, and shall reduce its long distance toll rates in accordance with section 364.163(2) (pass through benefits associated with access reductions to business and residential customers). According to FPSC, this approach appears to eliminate the need for certification under section 364.337, Florida Statutes. In addition, IXCs would no longer be subject to section 364.19, Florida Statutes, telecommunications service contracts; regulation by commission. This statute is the primary basis for FPSC rules relating to consumer billing issues other than slamming and cramming. Such billing complaints comprise a significant portion of IXC related complaints.

The FPSC further stated that sections 364.603 (slamming) and 364.604 (cramming) specifically would remain applicable to IXCs; however, the definitions of "billing party," "customer," and "originating party" contained in 364.602(1), 364.602(3), and 364.602(4) refer to customers of "telecommunications companies." Since IXCs are not "telecommunications companies" by definition, it raises the question of whether the definitions of "billing party," "customer," and "originating company" apply to IXCs.

Section 4. The bill amends section 364.025, Florida Statutes, to provide that universal service objectives be maintained after the local exchange market is opened to competitively provided services and during the transitional period that LECs be used to satisfy these objectives. The bill extends until January 1, 2009 the mandatory provision of LECs providing basic local telecommunications services within their territories.

Each telecommunications company contributes its fair share to support the universal service objectives and carrier-of-last-resort obligations. For a transitional period, the bill extends until January 1, 2009, the interim mechanism established by the FPSC for maintaining universal service objectives and funding carrier-of-last-resort obligations. The bill also changes the reference to "alternative" local exchange telecommunications company to "competitive" local exchange telecommunications company as it describes local exchange telecommunications companies that are not subject to carrier of last resort obligations.

call, a provider does not have to have its own network facilities. Since the FCC has not classified VoIP as "telecommunications service" or an "information service" a regulatory limbo exists. In the former case, telecommunications service, access charges do apply, and in the latter case, they most likely would not apply. There are a number of different configurations for VoIP that can complicate the ability of a LEC to apply the appropriate access charge.

⁶ Intercarrier compensation (a.k.a. reciprocal compensation) is paid by one LEC to another LEC on local calls that originate or terminate on another carrier's network. Intercarrier compensation rates are analogous to access charges but are between competing carriers on local calls.

⁷ The term "two-way telecommunications service for hire" is used to distinguish wireline phone service from things such as wireless service and also to distinguish services provided for hire versus private networks such as law enforcement.

In the event of substantially changed circumstances that warrant a change in the interim mechanism, the bill conforms the date with the extended period for petitioning a change in the interim mechanism. Further, the bill delays until January 1, 2009, the requirement that the Legislature establish a permanent universal service mechanism.

The bill also delays the date until January 1, 2009 that a CLEC may petition the FPSC to become the universal service provider and carrier of last resort in areas requested to be served. If a CLEC is established as the universal service provider and carrier of last resort, the bill strikes the requirement that the FPSC set up any mechanism needed to aid a CLEC in carrying out its duties.

Section 5. The bill amends section 364.0361, Florida Statutes. The language provided is to conform to federal rulings that information and broadband services should be free of local regulation.⁸ However, the bill preserves the rights-of-way authority under federal and state law as it relates to local governments' approval and regulation of facilities placed in their rights-of-way. Section 166.046, Florida Statutes, relates to "franchising authorities" for those entities providing "cable television service", and section 337.401, Florida Statutes, governs the use of rights-of-way by providers of "communications services."

Section 6. The bill amends paragraph (a) of subsection (1) and subsection (3) of section 364.051, Florida Statutes. It also provides that new subsections (6), (7), and (8) are added to the section.

This section addresses the transition of regulatory oversight for LECs to that equivalent to CLECs. The bill adds conforming language in changing the term "alternative" local exchange telecommunications company to "competitive" local exchange telecommunications company. The term "prices" is deleted and the term "revenues" is added to conform to the regulatory provisions of the bill. The current language using the term "price" was approved in 1995 as part of the competition act and permitted all LECs, except BellSouth whose change began sooner, to increase their basic rates by an amount based on inflation less 1 percent once in a 12-month period. This change will give the LECs more flexibility within the category of basic services. All but one LEC will be affected by this change.

According to the FPSC most LECs have rate groups for basic local exchange⁹ service. Historically, rates have varied across rate groups according to the number of customers in the local calling area. Those local calling areas with the highest number of customers pay more and those in smaller local calling areas pay less. For example, in BellSouth's territory the largest rate group pays \$11.04 per month and the smallest rate group pays \$7.57 per month. The LECs have historically argued that this price relationship is inversely related to the actual cost of providing service. The change from "price" to "revenue" will permit LECs to raise rates in the lowest priced area more than the inflation rate less 1% since there are no upper limits on actual "price" changes.

Further the bill provides in subsection (6) that at such time as a large LEC with more than 1 million access lines in service has reduced its intrastate switched network access rate to "parity", as defined at section 364.164(5), the LEC may elect to have its basic local telecommunications service treated the same as its non-basic services.

Today, non-basic services are regulated in a manner that permits greater pricing flexibility than basic local telecommunications services. Non-basic services are considered competitive and increases are permitted up to 6% per year in exchanges without another competitive local exchange carrier and 20% per year in exchanges with a competitive local exchange carrier.

⁸ Action by the FCC March 14, 2002, by Declaratory Ruling and Notice of Proposed Rulemaking (FCC 02-77) GN Docket No. 00.185, CS Docket No. 02-52.

⁹ Generally speaking, an exchange is the local calling area for which no toll or message charges are applied, and an access line is the local loop or the wire to the home or business that connects one to the network.

Also, the bill provides that upon election, the LEC's service quality levels will thereafter be no greater than the service quality levels imposed on CLECs (ALECs). If, however, the FPSC believes, for any reason, that such service quality level treatment is premature, the FPSC can step in within 120 days, and restore the pre-existing service quality requirements in whole or in part. That is, the FPSC can relax some service quality requirements in some or all of the LEC's service areas. In no event shall the FPSC impose retail quality requirements on the CLECs greater than existed on January 1, 2003.

There are currently no FPSC rules or a defined regulatory program on service quality for CLECs beyond the requirement to file and follow what is contained in the price list required by statutory language. However, sections 364.01(4)(c), 364.337(2) and (5), F.S., provide specific statutory authority for service quality standards for CLECs. Service quality standards relate to the timeliness of providing service when requested, the frequency and duration of service outages, the timely restoration of service following an outage and the likelihood of successfully completing a call, among other things.

The FPSC states it has, thus far, not imposed any service standards on the CLECs prior to January 1, 2003. It has taken the approach of minimizing any barriers to entry for the competing companies because many CLECs have no facilities of their own and rely on the underlying service quality of larger LECs. Most CLECs are small start-up companies for which additional requirements may have imposed unnecessary costs. The FPSC works to complete performance metrics and standards for the LECs wholesale operations before considering imposing service standards on CLECs. Also, the CLECs do not have control over the installation and repair of resale or leased network facilities, for the most part. The LEC usually performs both the installation and repair under the interconnection agreement with the CLEC. The FPSC has effectively set standards for the performance of the CLECs to some degree by requiring the LECs to provide the service in a timely manner to the CLECs. The LECs' wholesale performance is required to be at parity with its retail standards. Therefore, the FPSC believes if it has service requirements on the LECs wholesale portion, it drives the performance on the CLEC's retail portion. The proposed legislative language regarding 364.051 may lead to LECs not being held to any service quality standards once their access charges have reached parity, and the LEC has elected to have basic services treated as non-basic.

The bill further provides in subsection (7) that any large LEC that has made the election to treat its basic telecommunications service the same as its non-basic service may thereafter petition the FPSC to treat its retail services¹⁰ at a level no greater than imposed on CLECs (ALECs). The LEC shall show that granting the petition is in the public interest. The LEC must reduce its remaining switched network access rate (about 1 cent per minute) to its local reciprocal interconnection rate (less than 1/10th of a cent per minute) upon the petition being granted. The FPSC must act on the petition within 9 months. The FPSC must determine whether the level of competition faced by the LEC permits, and will continue to permit, the LEC to have its retail services regulated no differently than the CLECs (ALECs). But the FPSC may not increase the level of regulation imposed on CLECs (ALECs). This section correlates with section 15 of the bill.

Additionally, subsection (8) provides that the provisions of subsection (6) and (7) are applicable to any LEC with 1 million or less access lines in service and has reduced its intrastate switched network access rates to a level equal to its interstate access rates that are in effect on January 1, 2003.

Section 7. The bill changes the term "alternative" to "competitive" to conform to the definition used in the chapter.

Section 8. The bill creates a subsection (3) to section 364.058, Florida Statutes. The subsection provides for an expedited process by which carriers (LECs, CLECs, IXCs, etc.) may resolve disputes before the FPSC. This process has been coined "Rocket Docket" and its purpose is to minimize the time necessary to reach a decision on disputes. The FPSC shall make its decisions within 120 days.

¹⁰ Retail services are any offerings available on the market to consumers as opposed to being available to a carrier, which then refers to the wholesale market.

Language is provided which provides the FPSC with discretion to establish the rules necessary to implement the proposed process.

Section 9. The bill creates section 364.059, Florida Statutes. The section creates an additional limited proceeding for the purposes of addressing anti-competitive price reductions for basic local service. The section designates the FPSC as arbiter of allegations relating to such practices. This provision allows a carrier to seek a stay at the FPSC of any tariff or service offering which may qualify as predatory pricing. The FPSC shall establish objective benchmarks to use in determining whether a requested stay is warranted. The FPSC shall have authority to address allegations pursuant to the conditions enumerated in sections 364.051(a), (b), and (c), Florida Statutes, (cross-subsidization, below cost, and rate caps); 364.08, Florida Statutes, (free or reduced rates); 364.09, Florida Statutes, (rebates or special considerations); 364.10, Florida Statutes, (undue advantage to individual or locality); or 364.3381, Florida Statutes (cross subsidization). Upon the necessary showing, a tariff can be stayed for 45 days while the FPSC conducts a proceeding to determine the merits of the complaint. An extension may be granted, not to exceed 15 days, to permit parties to provide relevant cost and supporting documentations. The FPSC shall have access to the LECs relevant cost studies and supporting documentation pursuant to section 364.183, Florida Statutes.

In carrying out the above described procedures, the FPSC is required to establish objective benchmarks, such as a price or cost floor, by which it can determine whether a requested stay is warranted. The benchmarks are to be based on generally accepted economic costing and pricing principles and judicial or regulatory costing and pricing precedent. The FPSC is to establish the criteria for determining whether the basic local telecommunications service price reduction is anti-competitive. The FPSC must initiate rulemaking to establish the benchmarks no sooner than January 1, 2005, and issue a final order no later than 120 days after commencement. It should be noted that some contested rulemakings can take longer than 120 days to complete.

The FPSC stated that this section is designed to provide more timely relief to CLEC market participants, in cases where anti-competitive behavior is alleged, than is currently available through other legal avenues. The FPSC notes that since the new language refers to allegations against a "local exchange telecommunications company," the relief appears to be available only to CLECs, but not to LECs should they believe anti-competitive activity is occurring against them.

If, however, the FCC or commission determines that neither access charges or intercarrier compensation apply to VOIP, the commission must immediately commence the establishment of the benchmarks and criteria required under this section and the ILEC may make and implement its plan for rebalancing its rates and access charges as described in s. 364.051(6), F.S.

Section 10. The bill provides that subsection (3) is added to section 364.10, Florida Statutes. Subsection (3)(a) provides that any LEC that has been authorized to reduce its switched network access rate to parity, effective September 1, 2003, must provide Lifeline service to any customer who meets an income eligibility test at 125 percent or less of the federal poverty income guidelines. Each IXC currently providing any Lifeline benefits and exemptions to Lifeline customers shall file tariffs, by September 1, 2003, with the FPSC providing, at a minimum, Lifeline benefits at the 125 percent income eligibility test. The Office of Public Counsel will be responsible for certifying and maintaining claims submitted by a customer for eligibility under the income test. Further, the FPSC finds it unclear as to what will happen to rates of Lifeline subscribers once a LEC reaches parity.

BellSouth executed a settlement agreement with the Office of Public Counsel dealing with a Lifeline Assistance Plan. The company has already established an income eligibility test of 125 percent of the Federal poverty guidelines for Lifeline customers.

Subsection (3)(b) provides that each subject LEC must provide pamphlets, materials and brochures to the state and federal agencies that work with Lifeline-eligible persons. Each state agency providing

benefits to persons eligible for Lifeline service shall furnish such materials to affected persons at the time these persons apply for benefits.

Subsection (3)(c) provides that no LEC granted authority to reduce switched network access charges in a revenue neutral manner may increase the basic local telecommunications service rate of a Lifeline customer during that process, or until the Lifeline customer is no longer eligible, or if the FPSC grants a LEC's petition to increase the rates to Lifeline customers.

Subsection (3)(d) provides that LECs and the state agencies shall cooperate to develop procedures to promote Lifeline participation.

Subsection (3)(e) provides for an annual report by the FPSC to the Governor and the Legislature by December 31 each year the number of Lifeline participants and the effectiveness of participation promotions.

Sections 11, 12, and 13. The bill amends sections 364.16, 364.161, and 364.162 to change the term "alternative" to "competitive" to conform to the definition used in the chapter.

Section 14. The bill strikes subsections (1), (3), (4), and (5) of section 364.163, Florida Statutes, which relate to current caps and already executed reductions and long distance flow through reductions. Amended subsection (2), is renumbered subsection (1) and provides that after a LEC's intrastate switched network access rates are reduced to parity or below they become capped for a period of three years thereafter. Amended subsection (6), is renumbered (2), this provision requires that any intrastate interexchange telecommunications company whose access expenses go down as a result of a reduction in switched network access charges will reduce its intrastate long distance revenues by the amount necessary to flow-through rate reductions to both residential and business customers. Further, the bill provides for the elimination of any in-state connection fee, or similarly named fee, by July 1, 2006, provided that it can be done in a revenue neutral manner. Tariff changes made pursuant to this section shall be effective on one day's notice. Subsection (3) provides that the FPSC retain regulatory oversight of the flow-through of access expense reductions to insure the correctness of the flow-through.

Section 15. Section 364.164 is created by the proposed legislation. This section permits LECs after July 1, 2003, to petition the FPSC to reduce their intrastate switched network access rate in a revenue neutral manner. The FPSC shall issue its final order on the petition within 90 days. The FPSC must consider whether granting a petition will:

1. remove subsidies that will make local residential competition more attractive;
2. benefit residential consumers;
3. induce enhanced market entry;
4. move switched network access rates to parity in 2 to 4 years; and
5. be revenue neutral.

The FPSC has full authority not to grant the petition if any criteria are not met. If the FPSC grants the petition, then a new revenue category (basket) is created consisting of basic local telecommunications service and switched network access revenue to achieve neutrality. Under the revenue basket approach, the LEC must, once each year, reduce its switched network access rate in the amounts approved by the FPSC. Under no circumstances shall any adjustment in rates be offset entirely by the company's basic monthly recurring rate. The revenue effect on the basket is then calculated by multiplying the new switched network access rate by the number of switched network access minutes of use for the most recent 12-months. The number of switched network access minutes of use will most likely vary each year. Any resulting shortfall in the company's revenue basket is made up by increasing the LEC's revenues from basic local telecommunications service charges.

This is accomplished by repricing the various components of the LEC's basic local telecommunications service, such as monthly recurring and non-recurring prices. Again, this is accomplished by dividing the revenue shortfall in the company's basket by the most recent number of units of basic local telecommunications service. The number of basic local telecommunications service units¹¹ will most likely also vary each year.

The process of recalculating prices and revenues in the basket continues for 2 to 4 years until the large LEC's intrastate switched network access rate is equal to its interstate switched network access rate in effect on January 1, 2003. For small LECs, the process continues until the switched network access rate is 8 cents per minute.

Because the switched network access minutes of use, as well as the basic local service units, will vary year-by-year, it is not possible to predict with any certainty the size of any annual rate adjustments or the cumulative resulting rate adjustments. In accordance with telecommunications industry representations, the following information is provided:

- For BellSouth, the expected intrastate switched network access rate reduction will be from approximately \$.045 per minute to approximately \$.01 per minute, with the monthly basic local service rate potentially increasing by between about \$3.00 to \$3.50 per month over 3 years.
- For Sprint-Florida, the expected intrastate switched access rate will go from about \$.10 per minute to somewhere between \$.02 and \$.01 per minute, and the monthly basic local rate could potentially increase by a range of not more than \$6.50 to \$7.25 over 4 years.
- For Verizon, the expected switched access rate will go from about \$.09 per minute to somewhere between \$.02 to \$.01 per minute, and the monthly basic local rate could increase by between about \$4.50 and \$5.00 over 4 years.

In the event that during the switched network access rate reduction process the FCC or the FPSC should determine that VoIP, or its functional equivalent, is not subject to the payment of switched network access rates, the timetable for reducing switched network access rates in a revenue neutral manner shall be accelerated to the shortest remaining timeframe.

Section 16. Section 364.337 is amended in the bill to change the term "alternative" to "competitive" to conform to definition used in the chapter. Additionally, this section includes in the sections for which a CLEC is not subject section 364.33, Florida Statutes, relating to certificate of necessity prerequisite to construction, operation or control of telecommunications facilities.

Section 17. Subsection (1) of section 364.3376, Florida Statutes, is amended in the bill to remove IXCs from the list of entities that must seek certification of public convenience and necessity to provide operator services. Subsection (1)(b) is amended to include intrastate interexchange telecommunications company as an entity exempt from certification requirements to provide operator services. These changes reflect the reduction in the level of regulation that will be accorded IXCs in a competitive market as a result of the definitional changes. The provision eliminates potential conflicting requirements for IXCs that provide long distance service as well as operator services, but still retains existing requirements for those entities that provide only operator services.

Sections 18 and 19. The bill amends sections 364.502 and 365.172 to change the term "alternative" to "competitive" to conform to the definition used in the chapter.

Sections 20, 21, 22, 23, 24, 25, and 26. The bill amends subsection (6) of section 196.012; paragraph (b) of subsection (1) of section 199.183; subsection (6) of section 212.08, subsection (8) of section 290.007, subsection (3) of section 350.0605; subsection (4) of section 364.602; and subsection (5) of

¹¹ Service units refer to access lines.

section 489.103, Florida Statutes, to correct cross references in renumbering definitions at section 364.02, Florida Statutes.

Section 27. This act takes effect upon becoming law.

C. SECTION DIRECTORY:

Section 1. Provides short title.

Section 2. Provides legislative findings

Section 3. Provides definitions.

Section 4. Provides for universal service objectives.

Section 5. Provides for exclusivity for certain regulations

Section 6. Provides under certain circumstances under which certain telecommunications companies may elect alternative regulations.

Section 7. Provides conforming terminology.

Section 8. Provides for an expedited dispute process and provides rulemaking authority.

Section 9. Creates section 364.059, Florida Statutes, and provides for proceedings to address anti-competitive practices. Provides criteria for granting stays, and provides rulemaking authority.

Section 10. Provides for Lifeline. Provides role for Office of Public Counsel.

Section 11. Provides conforming terminology.

Section 12. Provides conforming terminology.

Section 13. Provides conforming terminology.

Section 14. Deletes obsolete language. Provides upon reaching parity or below, rates are capped for a 3year period. Provides for a reduction in switched network access charges that reduce intrastate long distance revenues by the amount necessary to flow-through reductions to both residential and business customers. Provides the FPSC retain regulatory oversight of the flow through to insure correctness.

Section 15. Authorizes LECs to petition the FPSC for reduction of intrastate network access rates under certain circumstances; requiring revenue neutrality; providing criteria for the FPSC to consider.

Section 16. Provides conforming terminology.

Section 17. Eliminates the requirement that IXCs obtain a certificate of public convenience prior to providing operator services.

Section 18. Provides conforming terminology.

Section 19. Provides conforming terminology.

Section 20. Corrects cross reference.

Section 21. Corrects cross reference.

Section 22. Corrects cross reference.

Section 23. Corrects cross reference.

Section 24. Corrects cross reference.

Section 25. Corrects cross reference.

Section 26. Corrects cross reference.

Section 27. Corrects cross reference.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The process of recalculating prices and revenues in the new basket continues for 2 to 4 years until the large LEC's intrastate switched network access rate is equal to its interstate switched network access rate in effect on January 1, 2003. For small LECs, the process continues until the switched network access rate is 8 cents per minute.

Because the switched network access minutes of use, as well as the basic local service units, will vary year-by-year, it is not possible to predict with any certainty the size of any annual rate adjustments or the cumulative resulting rate adjustments. However, according to telecommunications industry representations, approximate estimates for reductions in access rates and potential increases for basic service are as follows:

- For BellSouth, the expected intrastate switched network access rate reduction will be from approximately \$.045 per minute to approximately \$.01 per minute, with the monthly basic local service rate potentially increasing by between about \$3.00 to \$3.50 per month over 3 years.
- For Sprint-Florida, the expected intrastate switched access rate will go from about \$.10 per minute to somewhere between \$.02 and \$.01 per minute, and the monthly basic local rate could potentially increase by a range of not more than \$6.50 to \$7.25 over 4 years.
- For Verizon, the expected switched access rate will go from about \$.09 per minute to somewhere between \$.02 to \$.01 per minute, and the monthly basic local rate could increase by between about \$4.50 and \$5.00 over 4 years.

These adjustments would be added to the customers' basic rates. The long distance companies are required to flow through any reductions in access rates for the benefit of both the residential and business customers. The in-state connection charge, or other similarly named charge, will be eliminated.

However since increases in the price of basic service must be offset by reductions in access charges in a revenue neutral manner, customers who frequently make long distance intrastate calls or who pay an in-state connection charge will realize savings that are equivalent to the increased costs for basic service.

D. FISCAL COMMENTS:

According to the FPSC, there is a financial burden placed on the phone companies as participation levels in Lifeline rise. Currently, there is a credit up to \$13.00 for each Lifeline customer, with \$9.50 reimbursed out of the Federal universal service fund. Thus, the companies have to contribute \$3.50 per such customer per month. There is no intrastate universal service fund.

Additionally, there is no fiscal impact to the FPSC. While the proposed changes have varying impacts on the workload; increasing some, decreasing some, and adding work not currently done, the net increase in workload can be absorbed by existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Sufficient rulemaking authority appears to be granted to the FPSC for carrying out the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 14, the Committee on Business Regulation adopted four amendments. One change related to the provision of VoIP. It provided that regardless of the type of provider of the service, the technology would be free of unnecessary regulation. The second change would allow small LECs, 1 million or less access lines, to take the same actions as large companies in regard to retail services, service quality standards, and the equivalent regulatory treatment for basic and non-basic services. Small LECS would be able to take these actions whenever their access rates have been reduced to an amount equal to their interstate access rates. A third change corrected a Scribner's error and put back into current language the year "2001." An additional change clarifies that an IXC is subject to fines and penalties for applicable regulatory violations.