

Bill No. SB 998

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579-2139A-07

Proposed Committee Substitute by the Committee on
Communications and Public Utilities

1 A bill to be entitled

2 An act relating to communications; providing a

3 short title; amending s. 202.11, F.S.;

4 providing a definition; amending s. 202.24,

5 F.S.; prohibiting counties and municipalities

6 from negotiating terms and conditions relating

7 to cable and video services; deleting

8 authorization to negotiate; revising

9 application to existing ordinances or franchise

10 agreements; amending s. 337.401, F.S.; deleting

11 authorization for counties and municipalities

12 to award cable service franchises and a

13 restriction that cable service companies not

14 operate without such a franchise; amending s.

15 337.4061, F.S.; revising definitions; creating

16 ss. 610.102, 610.103, 610.104, 610.105,

17 610.106, 610.107, 610.108, 610.109, 610.112,

18 610.113, 610.114, 610.115, 610.116, 610.117,

19 610.118, and 610.119, F.S.; designating the

20 Department of State as the authorizing

21 authority; providing definitions; requiring

22 state authorization to provide cable and video

23 services; providing requirements and

24 procedures; providing for fees; providing

25 duties and responsibilities of the Department

26 of State; providing application procedures and

27 requirements; providing for issuing

28 certificates of franchise authority; providing

29 eligibility requirements and criteria for a

30 certificate; providing for amending a

31 certificate; providing for transferability of

579-2139A-07

1 certificates; providing for termination of
2 certificates under certain circumstances;
3 providing for challenging a department
4 rejection of an application; providing that the
5 department shall function in a ministerial
6 capacity for certain purposes; providing for an
7 application form; providing for an application
8 fee; requiring certain information updates;
9 providing for a processing fee; providing for
10 cancellation upon notice that information
11 updates and processing fees are not received;
12 providing for an opportunity to cure; providing
13 for transfer of such fees to the Department of
14 Agriculture and Consumer Services; requiring
15 the department to maintain a separate account
16 for cable franchise revenues; providing for
17 fees to the Department of State for certain
18 activities; declaring certain additional
19 obligations on a franchisee against public
20 policy and void; prohibiting the department
21 from imposing additional taxes, fees, or
22 charges on a cable or video service provider to
23 issue a certificate; prohibiting imposing
24 buildout, construction, and deployment
25 requirements on a certificateholder; requiring
26 certificateholders to make cable and video
27 service available at certain public buildings
28 under certain circumstances; imposing certain
29 customer service requirements on cable service
30 providers; requiring the Department of
31 Agriculture and Consumer Services to receive

Bill No. SB 998

Barcode 814916

579-2139A-07

1 customer service complaints; requiring
2 provision of public, educational, and
3 governmental access channels or capacity
4 equivalent; providing criteria, requirements,
5 and procedures; providing exceptions; providing
6 responsibilities of municipalities and counties
7 relating to such channels; providing for
8 enforcement; providing requirements for and
9 limitations on counties and municipalities
10 relating to access to public right-of-way;
11 prohibiting counties and municipalities from
12 imposing additional requirements on
13 certificateholders; authorizing counties and
14 municipalities to require permits of
15 certificateholders relating to public
16 right-of-way; providing permit criteria and
17 requirements; prohibiting discrimination among
18 cable and video service subscribers; providing
19 for enforcement; providing requirements for a
20 request for enforcement; requiring the
21 department to engage certain parties in
22 nonbinding mediation under certain
23 circumstances; providing for filing a complaint
24 in court; providing for a period of time to
25 cure certain noncompliance; clarifying local
26 government and department authority over
27 communications services; providing for an award
28 of costs and attorney's fees; providing for
29 determinations of violations; providing for
30 enforcement of compliance by
31 certificateholders; providing requirements for

579-2139A-07

1 cable service providers under certain court
2 orders; providing for payment by nonincumbent
3 certificateholders of certain amounts to
4 municipalities and counties under certain
5 circumstances; providing procedures for payment
6 of such amounts; providing service requirements
7 for nonincumbent certificateholders;
8 authorizing separate statement of certain fees
9 on a customer bill; preserving certain rights
10 of nonincumbent service providers; authorizing
11 certificateholders to intervene in certain
12 court actions; requiring the Office of Program
13 Policy Analysis and Government Accountability
14 to report to the Legislature on the status of
15 competition in the cable and video service
16 industry; providing report requirements;
17 requiring the Department of Agriculture and
18 Consumer Services to make recommendations to
19 the Legislature; providing duties of the
20 Department of State; providing severability;
21 amending ss. 350.81 and 364.0361, F.S.;
22 conforming cross-references; amending s.
23 364.051, F.S.; deleting provisions under which
24 certain telecommunications companies may elect
25 alternative regulation; amending s. 364.163,
26 F.S.; providing for a cap on certain switched
27 network access service rates; deleting a time
28 period in which intrastate access rates are
29 capped; prohibiting interexchange
30 telecommunications companies from instituting
31 any intrastate connection fee; deleting

579-2139A-07

1 provisions for regulatory oversight of
 2 intrastate access rates; amending s. 364.385,
 3 F.S.; providing for continuing effect of
 4 certain rates and charges approved by the
 5 Public Service Commission; providing for an
 6 exception; repealing s. 166.046, F.S., relating
 7 to definitions and minimum standards for cable
 8 television franchises imposed upon counties and
 9 municipalities; repealing s. 364.164, F.S.,
 10 relating to competitive market enhancement;
 11 providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. This act may be cited as the "Consumer
16 Choice Act of 2007."

17 Section 2. Subsection (24) is added to section 202.11,
18 Florida Statutes, to read:

19 202.11 Definitions.--As used in this chapter:

20 (24) "Video service" has the same meaning as that
21 provided in s. 610.103.

22 Section 3. Paragraphs (a) and (c) of subsection (2) of
23 section 202.24, Florida Statutes, are amended to read:

24 202.24 Limitations on local taxes and fees imposed on
25 dealers of communications services.--

26 (2)(a) Except as provided in paragraph (c), each
27 public body is prohibited from:

28 1. Levying on or collecting from dealers or purchasers
29 of communications services any tax, charge, fee, or other
30 imposition on or with respect to the provision or purchase of
31 communications services.

579-2139A-07

1 2. Requiring any dealer of communications services to
 2 enter into or extend the term of a franchise or other
 3 agreement that requires the payment of a tax, charge, fee, or
 4 other imposition.

5 3. Adopting or enforcing any provision of any
 6 ordinance or agreement to the extent that such provision
 7 obligates a dealer of communications services to charge,
 8 collect, or pay to the public body a tax, charge, fee, or
 9 other imposition.

10

11 ~~Municipalities and counties may not~~ ~~Each municipality and~~
 12 ~~county retains authority to negotiate all terms and conditions~~
 13 ~~of a cable service franchise allowed by federal and state law~~
 14 ~~except~~ those terms and conditions related to franchise fees or
 15 ~~and~~ the definition of gross revenues or other definitions or
 16 methodologies related to the payment or assessment of
 17 franchise fees on providers of cable or video services.

18 (c) This subsection does not apply to:

19 1. Local communications services taxes levied under
 20 this chapter.

21 2. Ad valorem taxes levied pursuant to chapter 200.

22 3. Occupational license taxes levied under chapter
 23 205.

24 4. "911" service charges levied under chapter 365.

25 5. Amounts charged for the rental or other use of
 26 property owned by a public body which is not in the public
 27 rights-of-way to a dealer of communications services for any
 28 purpose, including, but not limited to, the placement or
 29 attachment of equipment used in the provision of
 30 communications services.

31 6. Permit fees of general applicability which are not

579-2139A-07

1 related to placing or maintaining facilities in or on public
2 roads or rights-of-way.

3 7. Permit fees related to placing or maintaining
4 facilities in or on public roads or rights-of-way pursuant to
5 s. 337.401.

6 8. Any in-kind requirements, institutional networks,
7 or contributions for, or in support of, the use or
8 construction of public, educational, or governmental access
9 facilities allowed under federal law and imposed on providers
10 of cable or video service pursuant to any existing ordinance
11 or an existing franchise agreement granted by each
12 municipality or county, under which ordinance or franchise
13 agreement service is provided prior to July 1, 2007, or as
14 permitted under chapter 610. Nothing in this subparagraph
15 shall prohibit the ability of providers of cable or video
16 service to recover such expenses as allowed under federal law.

17 9. Special assessments and impact fees.

18 10. Pole attachment fees that are charged by a local
19 government for attachments to utility poles owned by the local
20 government.

21 11. Utility service fees or other similar user fees
22 for utility services.

23 12. Any other generally applicable tax, fee, charge,
24 or imposition authorized by general law on July 1, 2000, which
25 is not specifically prohibited by this subsection or included
26 as a replaced revenue source in s. 202.20.

27 Section 4. Paragraphs (a), (b), (e), and (f) of
28 subsection (3) of section 337.401, Florida Statutes, are
29 amended to read:

30 337.401 Use of right-of-way for utilities subject to
31 regulation; permit; fees.--

Bill No. SB 998

Barcode 814916

579-2139A-07

1 (3)(a)~~1~~. Because of the unique circumstances
2 applicable to providers of communications services, including,
3 but not limited to, the circumstances described in paragraph
4 (e) and the fact that federal and state law require the
5 nondiscriminatory treatment of providers of telecommunications
6 services, and because of the desire to promote competition
7 among providers of communications services, it is the intent
8 of the Legislature that municipalities and counties treat
9 providers of communications services in a nondiscriminatory
10 and competitively neutral manner when imposing rules or
11 regulations governing the placement or maintenance of
12 communications facilities in the public roads or
13 rights-of-way. Rules or regulations imposed by a municipality
14 or county relating to providers of communications services
15 placing or maintaining communications facilities in its roads
16 or rights-of-way must be generally applicable to all providers
17 of communications services and, notwithstanding any other law,
18 may not require a provider of communications services, ~~except~~
19 ~~as otherwise provided in subparagraph 2.~~, to apply for or
20 enter into an individual license, franchise, or other
21 agreement with the municipality or county as a condition of
22 placing or maintaining communications facilities in its roads
23 or rights-of-way. In addition to other reasonable rules or
24 regulations that a municipality or county may adopt relating
25 to the placement or maintenance of communications facilities
26 in its roads or rights-of-way under this subsection, a
27 municipality or county may require a provider of
28 communications services that places or seeks to place
29 facilities in its roads or rights-of-way to register with the
30 municipality or county and to provide the name of the
31 registrant; the name, address, and telephone number of a

Bill No. SB 998

Barcode 814916

579-2139A-07

1 contact person for the registrant; the number of the
2 registrant's current certificate of authorization issued by
3 the Florida Public Service Commission, ~~or~~ the Federal
4 Communications Commission, or the Department of State; and
5 proof of insurance or self-insuring status adequate to defend
6 and cover claims.

7 ~~2. Notwithstanding the provisions of subparagraph 1.,~~
8 ~~a municipality or county may, as provided by 47 U.S.C. s. 541,~~
9 ~~award one or more franchises within its jurisdiction for the~~
10 ~~provision of cable service, and a provider of cable service~~
11 ~~shall not provide cable service without such franchise. Each~~
12 ~~municipality and county retains authority to negotiate all~~
13 ~~terms and conditions of a cable service franchise allowed by~~
14 ~~federal law and s. 166.046, except those terms and conditions~~
15 ~~related to franchise fees and the definition of gross revenues~~
16 ~~or other definitions or methodologies related to the payment~~
17 ~~or assessment of franchise fees and permit fees as provided in~~
18 ~~paragraph (c) on providers of cable services. A municipality~~
19 ~~or county may exercise its right to require from providers of~~
20 ~~cable service in-kind requirements, including, but not limited~~
21 ~~to, institutional networks, and contributions for, or in~~
22 ~~support of, the use or construction of public, educational, or~~
23 ~~governmental access facilities to the extent permitted by~~
24 ~~federal law. A provider of cable service may exercise its~~
25 ~~right to recover any such expenses associated with such~~
26 ~~in-kind requirements, to the extent permitted by federal law.~~

27 (b) Registration described in paragraph ~~subparagraph~~
28 (a)~~1-~~ does not establish a right to place or maintain, or
29 priority for the placement or maintenance of, a communications
30 facility in roads or rights-of-way of a municipality or
31 county. Each municipality and county retains the authority to

Bill No. SB 998

Barcode 814916

579-2139A-07

1 regulate and manage municipal and county roads or
2 rights-of-way in exercising its police power. Any rules or
3 regulations adopted by a municipality or county which govern
4 the occupation of its roads or rights-of-way by providers of
5 communications services must be related to the placement or
6 maintenance of facilities in such roads or rights-of-way, must
7 be reasonable and nondiscriminatory, and may include only
8 those matters necessary to manage the roads or rights-of-way
9 of the municipality or county.

10 (e) The authority of municipalities and counties to
11 require franchise fees from providers of communications
12 services, with respect to the provision of communications
13 services, is specifically preempted by the state, ~~except as~~
14 ~~otherwise provided in subparagraph (a)2.~~, because of unique
15 circumstances applicable to providers of communications
16 services when compared to other utilities occupying municipal
17 or county roads or rights-of-way. Providers of communications
18 services may provide similar services in a manner that
19 requires the placement of facilities in municipal or county
20 roads or rights-of-way or in a manner that does not require
21 the placement of facilities in such roads or rights-of-way.
22 Although similar communications services may be provided by
23 different means, the state desires to treat providers of
24 communications services in a nondiscriminatory manner and to
25 have the taxes, franchise fees, and other fees paid by
26 providers of communications services be competitively neutral.
27 Municipalities and counties retain all existing authority, if
28 any, to collect franchise fees from users or occupants of
29 municipal or county roads or rights-of-way other than
30 providers of communications services, and the provisions of
31 this subsection shall have no effect upon this authority. The

579-2139A-07

1 provisions of this subsection do not restrict the authority,
 2 if any, of municipalities or counties or other governmental
 3 entities to receive reasonable rental fees based on fair
 4 market value for the use of public lands and buildings on
 5 property outside the public roads or rights-of-way for the
 6 placement of communications antennas and towers.

7 (f) Except as expressly allowed or authorized by
 8 general law and except for the rights-of-way permit fees
 9 subject to paragraph (c), a municipality or county may not
 10 levy on a provider of communications services a tax, fee, or
 11 other charge or imposition for operating as a provider of
 12 communications services within the jurisdiction of the
 13 municipality or county which is in any way related to using
 14 its roads or rights-of-way. A municipality or county may not
 15 require or solicit in-kind compensation, except as otherwise
 16 provided in s. 202.24(2)(c)8. or s. 610.109 ~~subparagraph (a)2.~~
 17 Nothing in this paragraph shall impair any ordinance or
 18 agreement in effect on May 22, 1998, or any voluntary
 19 agreement entered into subsequent to that date, which provides
 20 for or allows in-kind compensation by a telecommunications
 21 company.

22 Section 5. Section 337.4061, Florida Statutes, is
 23 amended to read:

24 337.4061 Definitions; unlawful use of state-maintained
 25 road right-of-way by nonfranchised cable and video ~~television~~
 26 services.--

27 (1) As used in this section, the term:

28 (a) "Cable service" means:

29 1. The one-way transmission to subscribers of video
 30 programming or any other programming service; and

31 2. Subscriber interaction, if any, which is required

Bill No. SB 998

Barcode 814916

579-2139A-07

1 for the selection or use of such video programming or other
 2 programming service.

3 (b) "Cable system" means a facility, consisting of a
 4 set of closed transmission paths and associated signal
 5 generation, reception, and control equipment that is designed
 6 to provide cable service which includes video programming and
 7 which is provided to multiple subscribers within a community,
 8 but such term does not include:

9 1. A facility that serves only to retransmit the
 10 television signals of one or more television broadcast
 11 stations;

12 2. A facility that serves only subscribers in one or
 13 more multiple-unit dwellings under common ownership, control,
 14 or management, unless such facility or facilities use any
 15 public right-of-way;

16 3. A facility that serves subscribers without using
 17 any public right-of-way.

18 4.3- A facility of a common carrier that is subject,
 19 in whole or in part, to the provisions of Title II of the
 20 federal Communications Act of 1934, except that such facility
 21 shall be considered a cable system other than for purposes of
 22 47 U.S.C. Section 541(c) to the extent such facility is used
 23 in the transmission of video programming directly to
 24 subscribers, unless the extent of such use is solely to
 25 provide interactive on-demand services; or

26 5.4- Any facilities of any electric utility used
 27 solely for operating its electric utility systems; or-

28 6. An open video system that complies with 47 U.S.C.
 29 Section 573.

30 (c) "Franchise" means an initial authorization or
 31 renewal thereof issued by a franchising authority, whether

579-2139A-07

1 such authorization is designated as a franchise, permit,
 2 license, resolution, contract, certificate, agreement, or
 3 otherwise, which authorizes the construction or operation of a
 4 cable system or video service provider network facilities.

5 (d) "Franchising authority" means any governmental
 6 entity empowered by federal, state, or local law to grant a
 7 franchise.

8 (e) "Person" means an individual, partnership,
 9 association, joint stock company, trust, corporation, or
 10 governmental entity.

11 (f) "Video programming" means programming provided by
 12 or generally considered comparable to programming provided by
 13 a television broadcast station or cable system.

14 (g) "Video service" has the same meaning as that
 15 provided in s. 610.103.

16 (2) It is unlawful to use the right-of-way of any
 17 state-maintained road, including appendages thereto, and also
 18 including, but not limited to, rest areas, wayside parks,
 19 boat-launching ramps, weigh stations, and scenic easements, to
 20 provide for cable or video service over facilities ~~purposes~~
 21 within a geographic area subject to a valid existing franchise
 22 for cable or video service, unless the cable or video service
 23 provider ~~system~~ using such right-of-way holds a franchise from
 24 a franchise authority ~~the municipality or county~~ for the area
 25 in which the right-of-way is located.

26 (3) A violation of this section shall be deemed a
 27 violation of s. 337.406.

28 Section 6. Sections 610.102, 610.103, 610.104,
 29 610.105, 610.106, 610.107, 610.108, 610.109, 610.112, 610.113,
 30 610.114, 610.115, 610.116, 610.117, and 620.118, Florida
 31 Statutes, are created to read:

579-2139A-07

1 610.102 Department of State authority to issue
 2 statewide cable and video franchise.--The department shall be
 3 designated as the franchising authority for a state-issued
 4 franchise for the provision of cable or video service. A
 5 municipality or county may not grant a new franchise for the
 6 provision of cable or video service within its jurisdiction.

7 610.103 Definitions.--As used in ss. 610.102-610.117:

8 (1) "Cable service" means:

9 (a) The one-way transmission to subscribers of video
 10 programming or any other programming service.

11 (b) Subscriber interaction, if any, that is required
 12 for the selection or use of such video programming or other
 13 programming service.

14 (2) "Cable service provider" means a person that
 15 provides cable service over a cable system.

16 (3) "Cable system" means a facility consisting of a
 17 set of closed transmission paths and associated signal
 18 generation, reception, and control equipment that is designed
 19 to provide cable service that includes video programming and
 20 that is provided to multiple subscribers within a community,
 21 but such term does not include:

22 (a) A facility that serves only to retransmit the
 23 television signals of one or more television broadcast
 24 stations;

25 (b) A facility that serves only subscribers in one or
 26 more multiple-unit dwellings under common ownership, control,
 27 or management, unless such facility or facilities use any
 28 public right-of-way;

29 (c) A facility that serves subscribers without using
 30 any public right-of-way;

31 (d) A facility of a common carrier that is subject, in

579-2139A-07

1 whole or in part, to the provisions of Title II of the federal
 2 Communications Act of 1934 except that such facility shall be
 3 considered a cable system other than for purposes of 47 U.S.C.
 4 Section 541(c) to the extent such facility is used in the
 5 transmission of video programming directly to subscribers,
 6 unless the extent of such use is solely to provide interactive
 7 on-demand services;

8 (e) Any facilities of any electric utility used solely
 9 for operating its electric utility systems; or

10 (f) An open video system that complies with 47 U.S.C.
 11 Section 573.

12 (4) "Certificateholder" means a cable or video service
 13 provider that has been issued and holds a certificate of
 14 franchise authority from the department.

15 (5) "Department" means the Department of State.

16 (6) "Franchise" means an initial authorization or
 17 renewal of an authorization, regardless of whether the
 18 authorization is designated as a franchise, permit, license,
 19 resolution, contract, certificate, agreement, or otherwise, to
 20 construct and operate a cable system or video service provider
 21 network facilities in the public right-of-way.

22 (7) "Franchise authority" means any governmental
 23 entity empowered by federal, state, or local law to grant a
 24 franchise.

25 (8) "Incumbent cable service provider" means the cable
 26 service provider serving the largest number of cable
 27 subscribers in a particular municipal or county franchise area
 28 on July 1, 2007.

29 (9) "Public right-of-way" means the area on, below, or
 30 above a public roadway, highway, street, sidewalk, alley, or
 31 waterway, including, without limitation, a municipal, county,

579-2139A-07

1 state, district, or other public roadway, highway, street,
2 sidewalk, alley, or waterway.

3 (10) "Video programming" means programming provided
4 by, or generally considered comparable to programming provided
5 by, a television broadcast station as set forth in 47 U.S.C.
6 s. 522(20).

7 (11) "Video service" means video programming services,
8 including cable services, provided through wireline facilities
9 located at least in part in the public rights-of-way without
10 regard to delivery technology, including Internet protocol
11 technology. This definition does not include any video
12 programming provided by a commercial mobile service provider
13 as defined in 47 U.S.C. s. 332(d), video programming provided
14 as part of, and via a cable service that enables end users to
15 access content, information, electronic mail, or other
16 services offered over the public Internet.

17 (12) "Video service provider" means an entity
18 providing video service.

19 610.104 State authorization to provide cable or video
20 service.--

21 (1) An entity or person seeking to provide cable or
22 video service in this state after July 1, 2007, shall file an
23 application for a state-issued certificate of franchise
24 authority with the department as required by this section. An
25 entity or person providing cable or video service under an
26 unexpired franchise agreement with a municipality or county as
27 of July 1, 2007, is not subject to this subsection with
28 respect to providing service in such municipality or county
29 until the franchise agreement expires, except as provided by
30 subsection (2) and s. 610.105(4). An entity or person
31 providing cable or video service may seek authorization from

579-2139A-07

1 the department to provide service in areas where the entity or
2 person currently does not have an existing franchise agreement
3 as of July 1, 2007.

4 (2) Beginning July 1, 2007, a cable or video service
5 provider that is not an incumbent cable or video service
6 provider and provides cable or video service to less than 40
7 percent of the total cable and video service subscribers in a
8 particular franchise area may elect to terminate an existing
9 municipal or county franchise and seek a state-issued
10 certificate of franchise authority by providing written notice
11 to the Secretary of State and the affected municipality or
12 county after July 1, 2007. The municipal or county franchise
13 is terminated under this subsection on the date the department
14 issues the state-issued certificate of franchise authority.

15 (3) An applicant for a state-issued certificate of
16 franchise authority to provide cable or video service shall
17 submit to the Department of State an application that
18 contains:

19 (a) The official name of the cable or video service
20 provider.

21 (b) The street address of the principal place of
22 business of the cable or video service provider.

23 (c) The federal employer identification number or the
24 Department of State's document number.

25 (d) The name, address, and telephone number of an
26 officer, partner, owner, member, or manager as a contact
27 person for the cable or video service provider to whom
28 questions or concerns may be addressed.

29 (e) A duly executed affidavit signed by an officer,
30 partner, owner, or managing member affirming and containing:

31 1. That the applicant is fully qualified under the

579-2139A-07

1 provisions of this chapter to file an application and
2 affidavit for a certificate of franchise authority.

3 2. That the applicant has filed or will timely file
4 with the Federal Communications Commission all forms required
5 by that agency in advance of offering cable or video service
6 in this state.

7 3. That the applicant agrees to comply with all
8 applicable federal and state laws and regulations, to the
9 extent such state laws and rules are not in conflict with or
10 superseded by the provisions of this chapter or other
11 applicable state law.

12 4. That the applicant agrees to comply with all state
13 laws and rules and municipal and county ordinances and
14 regulations regarding the placement and maintenance of
15 communications facilities in the public rights-of-way that are
16 generally applicable to providers of communications services
17 in accordance with s. 337.401.

18 5. A description of the service area for which the
19 applicant seeks the certificate of franchise authority, which
20 need not be coextensive with municipal, county, or other
21 political boundaries.

22 6. The location of the applicant's principal place of
23 business, the names of the applicant's principal executive
24 officers, and a physical address sufficient for the purposes
25 of chapter 48.

26 7. That the applicant will file with the department a
27 notice of commencement of service within 5 business days after
28 first providing service in each area described in subparagraph
29 5.

30 8. A statement affirming that the applicant will
31 notify the department of any change of address or contact

579-2139A-07

1 person.

2 (4) Before the 10th business day after the department
3 receives the application, the department shall notify the
4 applicant whether the application and affidavit described in
5 subsection (3) are complete. If the department rejects the
6 application and affidavit, the department shall specify with
7 particularity the reasons for the rejection and permit the
8 applicant to amend the application or affidavit to cure any
9 deficiency. The department shall act upon the amended
10 application or affidavit within 10 business days after the
11 department's receipt of the amended application or affidavit.

12 (5) The department shall issue a certificate of
13 franchise authority to the applicant before the 15th business
14 day after receipt of an accepted application. The certificate
15 of franchise authority issued by the department shall contain:

16 (a) The name of the certificateholder and its
17 identification number.

18 (b) A grant of authority to provide cable or video
19 service as requested in the application.

20 (c) A grant of authority to construct, maintain, and
21 operate facilities through, upon, over, and under any public
22 right-of-way or waters.

23 (d) A statement that the grant of authority is subject
24 to lawful operation of the cable or video service by the
25 applicant or its successor in interest.

26 (e) A statement that describes the service area for
27 which this certificate of authority applies.

28 (f) A statement that includes the effective date of
29 the commencement of this authority.

30 (6) If the department fails to act on the accepted
31 application within 30 business days after receiving the

579-2139A-07

1 accepted application, the application shall be deemed approved
2 by the department without further action.

3 (7) A certificateholder that seeks to include
4 additional service areas in its current certificate shall file
5 an amendment to the certificate with the department. Such
6 amendment shall specify the name and address of the
7 certificateholder, the new service area or areas to be served,
8 and the effective date of commencement of operations in the
9 new service area or areas. Such amendment shall be filed with
10 the department within 5 business days after first providing
11 service in each such additional area.

12 (8) The certificate of franchise authority issued by
13 the department is fully transferable to any successor in
14 interest to the applicant to which the certificate is
15 initially granted. A notice of transfer shall be filed with
16 the department and the relevant municipality or county within
17 14 business days following the completion of such transfer.

18 (9) The certificate of franchise authority issued by
19 the department may be terminated by the cable or video service
20 provider by submitting notice to the department.

21 (10) An applicant may challenge a rejection of an
22 application by the department in a court of competent
23 jurisdiction through a petition for mandamus.

24 (11) In executing the provisions of this section, the
25 department shall function in a ministerial capacity accepting
26 information contained in the application and affidavit at face
27 value. The applicant shall ensure continued compliance with
28 all applicable business formation, registration, and taxation
29 provisions of law.

30 (12) The application shall be accompanied by a
31 one-time fee of \$10,000. A parent company may file a single

Bill No. SB 998

Barcode 814916

579-2139A-07

1 application covering itself and all of its subsidiaries and
2 affiliates intending to provide cable or video service in the
3 service areas throughout the state as described in paragraph
4 (3)(d), but the entity actually providing such service in a
5 given area shall otherwise be considered the certificateholder
6 under this act.

7 (13) Beginning 5 years after approval of the
8 certificateholder's initial certificate of franchise issued by
9 the department, and every 5 years thereafter, the
10 certificateholder shall update the information contained in
11 the original application for a certificate of franchise. At
12 the time of filing the information update, the
13 certificateholder shall pay a processing fee of \$1,000. Any
14 certificateholder that fails to file the updated information
15 and pay the processing fee on the 5-year anniversary dates
16 shall be subject to cancellation of its state-issued
17 certificate of franchise authority if, upon notice given to
18 the certificateholder at its last address on file with the
19 department, the certificateholder fails to file the updated
20 information and pay the processing fee within 30 days after
21 the date notice was mailed. The application and processing
22 fees imposed in this section shall be paid to the Department
23 of State for deposit into the Operating Trust Fund for
24 immediate transfer by the Chief Financial Officer to the
25 General Inspection Trust Fund of the Department of Agriculture
26 and Consumer Services. The Department of Agriculture and
27 Consumer Services shall maintain a separate account within the
28 General Inspection Trust Fund to distinguish cable franchise
29 revenues from all other funds. The application, any amendments
30 to the certificate, or information updates must be accompanied
31 by a fee to the Department of State equal to that for filing

579-2139A-07

1 articles of incorporation pursuant to s. 607.0122(1).

2 610.105 Eligibility for state-issued franchise.--

3 (1) Except as provided in s. 610.104(1) and (2) and
4 subsection (4), an incumbent cable service provider that has
5 an existing, unexpired franchise to provide cable service with
6 respect to a municipality or county as of July 1, 2007, is not
7 eligible to apply for a state-issued certificate of franchise
8 authority under this chapter as to that municipality or county
9 until the expiration date of the existing franchise agreement.

10 (2) For purposes of this section, an incumbent cable
11 service provider will be deemed to have or have had a
12 franchise to provide cable service in a specific municipality
13 or county if any affiliate or successor entity of the cable
14 service provider has or had an unexpired franchise agreement
15 granted by that specific municipality or county as of July 1,
16 2007.

17 (3) The term "affiliate or successor entity" in this
18 section refers to an entity receiving, obtaining, or operating
19 under a franchise that directly or indirectly owns or
20 controls, is owned or controlled by, or is under common
21 ownership or control with the cable service provider.

22 (4) Notwithstanding subsection (1), an incumbent cable
23 service provider may elect to terminate an existing municipal
24 or county franchise and apply for a state-issued certificate
25 of franchise authority with respect to such municipality or
26 county if another cable or video service provider has been
27 granted a state-issued certificate of franchise authority for
28 a service area located in whole or in part within the service
29 area covered by the existing municipal or county franchise and
30 such certificateholder has commenced providing service in such
31 area. The incumbent cable service provider shall provide at

579-2139A-07

1 the time of filing its application for a state-issued
 2 certificate of franchise authority written notice of its
 3 intent to terminate its existing franchise under this
 4 subsection to the department and to the affected municipality
 5 or county. The municipal or county franchise shall be
 6 terminated under this section on the date the department
 7 issues to the incumbent cable service provider the
 8 state-issued certificate of franchise authority to provide
 9 service in such municipality or county franchise area to the
 10 incumbent cable service provider.

11 (5) If an incumbent cable or video service provider
 12 has been granted a state-issued certificate of franchise
 13 authority that covers all or a portion of a municipality or
 14 county, any obligation under any existing municipal or county
 15 franchise that exceeds the obligations imposed on the
 16 certificateholder in the area covered by the certificate shall
 17 be against public policy and void.

18 610.106 Franchise fees prohibited.--Except as
 19 otherwise provided in this chapter, the department may not
 20 impose any taxes, fees, charges, or other impositions on a
 21 cable or video service provider as a condition for the
 22 issuance of a state-issued certificate of franchise authority.
 23 No municipality or county may impose any taxes, fees, charges,
 24 or other exactions on certificateholders in connection with
 25 use of public right-of-way as a condition of a
 26 certificateholder doing business in the municipality or
 27 county, or otherwise, except such taxes, fees, charges, or
 28 other exactions permitted by chapter 202, s. 337.401(6), or s.
 29 610.117.

30 610.107 Buildout.--No franchising authority, state
 31 agency, or political subdivision may impose any buildout,

579-2139A-07

1 system construction, or service deployment requirements on a
2 certificateholder.

3 610.108 Customer service standards.--

4 (1) An incumbent cable service provider shall comply
5 with customer service requirements in 47 C.F.R. s. 76.309(c)
6 until there are two or more providers offering cable or video
7 service, excluding direct-to-home satellite service, in all or
8 part of the incumbent service provider's relevant service
9 area.

10 (2) Beginning on July 1, 2009, for all providers of
11 cable service in municipalities and counties that, as of
12 January 1, 2007, have an office or department dedicated to
13 responding to cable service quality complaints, all such
14 complaints shall be handled on and after July 1, 2009, by the
15 Department of Agriculture and Consumer Services. Until that
16 time, cable service quality complaints shall continue to be
17 handled by the municipality or county. This provision shall
18 not be construed to permit the municipality or county to
19 impose customer service standards in conflict with this
20 section.

21 (3) The Department of Agriculture and Consumer
22 Services shall receive service quality complaints from
23 customers of a certificateholder and shall address such
24 complaints in an expeditious manner by assisting in the
25 resolution of such complaint between the complainant and the
26 certificateholder. The Department of Agriculture and Consumer
27 Services shall adopt any procedural rules pursuant to ss.
28 120.536(1) and 120.54 necessary to implement this section.

29 610.109 Public, educational, and governmental access
30 channels.--

31 (1) A certificateholder, not later than 12 months

Bill No. SB 998

Barcode 814916

579-2139A-07

1 following a request by a municipality or county within whose
2 jurisdiction the certificateholder is providing cable or video
3 service, shall designate a sufficient amount of capacity on
4 its network to allow the provision of public, educational, and
5 governmental access channels for noncommercial programming as
6 set forth in this section, except that a holder of a
7 state-issued certificate of authority granted pursuant to s.
8 610.105 shall be required to satisfy the public, educational,
9 and government access channel capacity obligations specified
10 in this section upon issuance of such certificate for any
11 service area covered by such certificate that is located
12 within the service area that was covered by the incumbent
13 cable or video service provider's terminated franchise.

14 (2) A certificateholder shall designate a sufficient
15 amount of capacity on its network to allow the provision of a
16 comparable number of public, educational, and governmental
17 access channels or capacity equivalent that a municipality or
18 county has activated under the incumbent cable service
19 provider's franchise agreement as of January 1, 2007. For the
20 purposes of this section, a public, educational, or
21 governmental channel is deemed activated if the channel is
22 being used for public, educational, or governmental
23 programming, excluding without limitation repeat and
24 character-generated programming, for any 6 consecutive-month
25 period. The municipality or county may request additional
26 channels or capacity permitted under the incumbent cable
27 service provider's franchise agreement as of January 1, 2007.
28 A cable or video service provider may locate any public,
29 educational, or governmental access channel on any tier of
30 service offered that is viewed by at least 40 percent of the
31 provider's subscribers.

Bill No. SB 998

Barcode 814916

579-2139A-07

1 (3) If a municipality or county did not have public,
2 educational, or governmental access channels activated under
3 the incumbent cable service provider's franchise agreement as
4 of July 1, 2007, not later than 12 months following a request
5 by the municipality or county within whose jurisdiction a
6 certificateholder is providing cable or video service, the
7 cable or video service provider shall furnish:

8 (a) Up to three public, educational, or governmental
9 channels or capacity equivalent for a municipality or county
10 with a population of at least 50,000.

11 (b) Up to two public, educational, or governmental
12 channels or capacity equivalent for a municipality or county
13 with a population of less than 50,000.

14 (4) Any public, educational, or governmental channel
15 provided pursuant to this section that is not used by the
16 municipality or county for at least 10 hours a day shall no
17 longer be made available to the municipality or county but may
18 be programmed at the cable or video service provider's
19 discretion. At such time as the municipality or county can
20 certify to the cable or video service provider a schedule that
21 meets the criteria in this section, the cable or video service
22 provider shall restore the previously lost channel and may
23 carry that channel on any tier of service offered that is
24 viewed by at least 40 percent of the provider's subscribers.

25 (5) If a municipality or county has not used the
26 number of access channels or capacity equivalent permitted by
27 subsection (3), access to the additional channels or capacity
28 equivalent allowed in subsection (3) shall be provided upon 12
29 month's written notice if the municipality or county meets the
30 following standard: if a municipality or county has one active
31 public, educational, or governmental channel and wishes to

Bill No. SB 998

Barcode 814916

579-2139A-07

1 activate an additional public, educational, or governmental
2 channel, the initial channel shall be considered to be
3 substantially used when 12 hours are programmed on that
4 channel each calendar day. In addition, at least 40 percent of
5 the 12 hours of programming for each business day on average
6 over each calendar quarter must be nonrepeat programming.
7 Nonrepeat programming shall include the first three
8 videocastings of a program. If a municipality or county is
9 entitled to three public, educational, or governmental
10 channels under subsection (3) and has in service two active
11 public, educational, or governmental channels, each of the two
12 active channels shall be considered to be substantially used
13 when 12 hours are programmed on each channel each calendar day
14 and at least 50 percent of the 12 hours of programming for
15 each business day on average over each calendar quarter is
16 nonrepeat programming for three consecutive calendar quarters.

17 (6) The operation of any public, educational, or
18 governmental access channel or capacity equivalent provided
19 under this section shall be the responsibility of the
20 municipality or county receiving the benefit of such channel
21 or capacity equivalent, and a certificateholder bears only the
22 responsibility for the transmission of such channel content. A
23 certificateholder shall be responsible for providing the
24 connectivity to each public, educational, or governmental
25 access channel distribution point up to the first 200 feet
26 from the certificateholder's activated cable or video
27 transmission system.

28 (7) The municipality or county shall ensure that all
29 transmissions, content, or programming to be transmitted over
30 a channel or facility by a certificateholder are provided or
31 submitted to the cable or video service provider in a manner

Bill No. SB 998

Barcode 814916

579-2139A-07

1 or form that is capable of being accepted and transmitted by a
2 provider without any requirement for additional alteration or
3 change in the content by the provider, over the particular
4 network of the cable or video service provider, which is
5 compatible with the technology or protocol used by the cable
6 or video service provider to deliver services. The provision
7 of public, educational, or governmental content to the
8 provider constitutes authorization for the provider to carry
9 such content, including, at the provider's option,
10 authorization to carry the content beyond the jurisdictional
11 boundaries of the municipality or county.

12 (8) Where technically feasible, a certificateholder
13 and an incumbent cable service provider shall use reasonable
14 efforts to interconnect their networks for the purpose of
15 providing public, educational, and governmental programming.
16 Interconnection may be accomplished by direct cable, microwave
17 link, satellite, or other reasonable method of connection.
18 Certificateholders and incumbent cable service providers shall
19 negotiate in good faith and incumbent cable service providers
20 may not withhold interconnection of public, educational, and
21 governmental channels.

22 (9) A certificateholder is not required to
23 interconnect for, or otherwise to transmit, public,
24 educational, and governmental content that is branded with the
25 logo, name, or other identifying marks of another cable or
26 video service provider, and a municipality or county may
27 require a cable or video service provider to remove its logo,
28 name, or other identifying marks from public, educational, and
29 governmental content that is to be made available to another
30 provider.

31 (10) A court of competent jurisdiction shall have

579-2139A-07

1 exclusive jurisdiction to enforce any requirement under this
2 section.

3 610.112 Nondiscrimination by municipality or county.--

4 (1) A municipality or county shall allow a
5 certificateholder to install, construct, and maintain a
6 network within a public right-of-way and shall provide a
7 certificateholder with comparable, nondiscriminatory, and
8 competitively neutral access to the public right-of-way in
9 accordance with the provisions of s. 337.401. All use of a
10 public right-of-way by a certificateholder is nonexclusive.

11 (2) A municipality or county may not discriminate
12 against a certificateholder regarding:

13 (a) The authorization or placement of a network in a
14 public right-of-way;

15 (b) Access to a building or other property; or

16 (c) Utility pole attachment terms and conditions.

17 610.113 Limitation on local authority.--

18 (1) A municipality or county may not impose additional
19 requirements on a certificateholder, including, but not
20 limited to, financial, operational, and administrative
21 requirements, except as expressly permitted by this chapter. A
22 municipality or county may not impose on activities of a
23 certificateholder a requirement:

24 (a) That particular business offices be located in the
25 municipality or county;

26 (b) Regarding the filing of reports and documents with
27 the municipality or county that are not required by state or
28 federal law and that are not related to the use of the public
29 right-of-way. Reports and documents other than schematics
30 indicating the location of facilities for a specific site that
31 are provided in the normal course of the municipality's or

Bill No. SB 998

Barcode 814916

579-2139A-07

1 county's permitting process, that are authorized by s. 337.401
2 for communications services providers, or that are otherwise
3 required in the normal course of such permitting process shall
4 not be considered related to the use of the public
5 right-of-way for communications service providers. A
6 municipality or county may not request information concerning
7 the capacity or technical configuration of a
8 certificateholder's facilities;

9 (c) For the inspection of a certificateholder's
10 business records; or

11 (d) For the approval of transfers of ownership or
12 control of a certificateholder's business, except that a
13 municipality or county may require a certificateholder to
14 provide notice of a transfer within a reasonable time.

15 (2) Notwithstanding any other provision of law, a
16 municipality or county may require the issuance of a permit in
17 accordance with and subject to s. 337.401 to a
18 certificateholder that is placing and maintaining facilities
19 in or on a public right-of-way in the municipality or county.
20 In accordance with s. 337.402, the permit may require the
21 permitholder to be responsible, at the permitholder's expense,
22 for any damage resulting from the issuance of such permit and
23 for restoring the public right-of-way to its original
24 condition before installation of such facilities. The terms of
25 the permit shall be consistent with construction permits
26 issued to other providers of communications services placing
27 or maintaining communications facilities in a public
28 right-of-way.

29 610.114 Discrimination prohibited.--

30 (1) The purpose of this section is to prevent
31 discrimination among potential residential subscribers.

579-2139A-07

1 (2) Pursuant to 47 U.S.C. s. 541(a)(3), a
 2 certificateholder may not deny access to service to any group
 3 of potential residential subscribers because of the race or
 4 income of the residents in the local area in which such group
 5 resides.

6 (3) An affected person may seek enforcement of
 7 subsection (2) by initiating a proceeding with the Department
 8 of Agriculture and Consumer Services pursuant to s. 570.544.
 9 Any request for enforcement provided to the department must
 10 contain a clear statement of the facts and the information
 11 upon which the complaint is based. The department shall
 12 provide any information specified or requested in the
 13 complaint, including supporting documents, to the appropriate
 14 certificateholder which shall have 60 days to provide a
 15 response to the department and the complainant. If the
 16 complainant is not satisfied with the response, the department
 17 shall engage in nonbinding mediation between the affected
 18 parties. If the mediation does not resolve the matter to each
 19 party's satisfaction, an affected party may file a complaint
 20 with a court of competent jurisdiction. A person may not file
 21 an action in court without having participated in a mediation
 22 of the complaint by the department. If such court finds that a
 23 certificateholder is in material noncompliance with this
 24 section, the certificateholder shall have a reasonable period
 25 of time, as specified by the court, to cure such
 26 noncompliance. The court may also award the affected person
 27 his or her reasonable costs and attorney's fees in seeking
 28 enforcement of subsection (2).

29 (4) For purposes of determining whether a
 30 certificateholder has violated subsection (2), cost, density,
 31 distance, and technological or commercial limitations shall be

Bill No. SB 998

Barcode 814916

579-2139A-07

1 taken into account. Use of an alternative technology that
2 provides comparable content, service, and functionality may
3 not be considered a violation of subsection (2). The inability
4 to serve an end user because a certificateholder is prohibited
5 from placing its own facilities in a building or property is
6 not a violation of subsection (2). This section may not be
7 construed to authorize any buildout requirements on a
8 certificateholder.

9 (5) The Department of Agriculture and Consumer
10 Services shall adopt any procedural rules pursuant to ss.
11 120.536(1) and 120.54 necessary to implement this section.

12 610.115 Compliance.--If a certificateholder is found
13 by a court of competent jurisdiction not to be in compliance
14 with the requirements of this chapter, the certificateholder
15 shall have a reasonable period of time, as specified by the
16 court, to cure such noncompliance.

17 610.116 Limitation.--Nothing in this chapter shall be
18 construed to give any local government or the department any
19 authority over any communications service other than cable or
20 video services whether offered on a common carrier or private
21 contract basis.

22 610.117 Impairment; court-ordered operations.--

23 (1) If an incumbent cable service provider is required
24 to operate under its existing franchise and is legally
25 prevented by a lawfully issued order of a court of competent
26 jurisdiction from exercising its right to terminate its
27 existing franchise pursuant to the terms of s. 610.105(4), any
28 nonincumbent certificateholder providing cable service or
29 video service in whole or in part within the service area
30 which is the subject of the incumbent cable service provider's
31 franchise shall also comply with such order, but only as long

579-2139A-07

1 as such court order remains in effect, with the following
2 franchise terms and conditions as applicable to the incumbent
3 cable service provider in the service area:

4 (a) The nonincumbent certificateholder shall pay to
5 the municipality or county the lesser of:

6 1. Any prospective lump-sum or recurring
7 per-subscriber funding obligations to support public,
8 educational, and governmental access channels, institutional
9 networks if any, or other prospective franchise-required
10 monetary grants related to public, educational, or
11 governmental access facilities and capital costs. Prospective
12 lump-sum payments shall be made on an equivalent
13 per-subscriber basis calculated as follows: the amount of the
14 prospective funding obligations divided by the number of
15 subscribers being served by the incumbent cable service
16 provider at the time of payment, divided by the number of
17 months remaining in the incumbent cable service provider's
18 franchise equals the monthly per subscriber amount to be paid
19 by the certificateholder until the expiration or termination
20 of the incumbent cable service provider's franchise; or

21 2. An amount equal to 1 percent of the sales price, as
22 defined in s. 202.11(13), for the taxable monthly retail sales
23 of cable or video programming services the nonincumbent
24 certificateholder received from subscribers in the affected
25 municipality or county. All definitions and exemptions under
26 chapter 202 shall apply in the determination of taxable
27 monthly retail sales of cable or video programming services.

28 (b) No payments shall be due under this subsection
29 until 45 days after the municipality or county notifies the
30 respective providers and the Department of Revenue, in
31 writing, of the appropriate per-subscriber amount. All

579-2139A-07

1 payments made pursuant to this subsection shall be made as a
2 part of the certificateholder's payment of communications
3 services tax pursuant to s. 202.27, and all administrative
4 provisions of chapter 202 shall apply to any payments made
5 pursuant to this subsection.

6 (c) Upon request by a municipality or county, the
7 nonincumbent certificateholder shall provide within a
8 reasonable period of time comparable, complementary basic
9 cable or video service offerings to public K-12 schools,
10 public libraries, or government buildings as is required in
11 the incumbent's existing franchise, to the extent such
12 buildings are located within 200 feet of the nonincumbent
13 certificateholder's activated video distribution plant.

14 (d) Any nonincumbent certificateholder may designate
15 that portion of that subscriber's bill attributable to any fee
16 imposed pursuant to this section as a separate item on the
17 bill and recover such amount from the subscriber.

18 (2) The provisions of subsection (1) shall not alter
19 the rights of a nonincumbent cable service or video service
20 provider with respect to service areas designated pursuant to
21 s. 610.104(4)(d). Any certificateholder providing cable
22 service or video service in a service area covered by the
23 terms of an existing cable franchise that is subject to a
24 court or other proceeding challenging the ability of an
25 incumbent cable service provider to exercise its legal right
26 to terminate its existing cable franchise pursuant to s.
27 610.105(4) shall have the right to intervene in such
28 proceeding.

29 610.118 Reports to the Legislature.--

30 (1) The Office of Program Policy Analysis and
31 Government Accountability shall submit to the President of the

Bill No. SB 998

Barcode 814916

579-2139A-07

1 Senate, the Speaker of the House of Representatives, and the
2 majority and minority leaders of the Senate and House of
3 Representatives, by December 1, 2009, and December 1, 2014, a
4 report on the status of competition in the cable and video
5 service industry, including, by each municipality and county,
6 the number of cable and video service providers, the number of
7 cable and video subscribers served, the number of areas served
8 by fewer than two cable or video service providers, the trend
9 in cable and video service prices, and the identification of
10 any patterns of service as they impact demographic and income
11 groups.

12 (2) By January 15, 2008, the Department of Agriculture
13 and Consumer Services shall make recommendations to the
14 President of the Senate, the Speaker of the House of
15 Representatives, and the majority and minority leaders of the
16 Senate and House of Representatives regarding the workload and
17 staffing requirements associated with consumer complaints
18 related to video and cable certificateholders. The Department
19 of State shall provide to the Department of Agriculture and
20 Consumer Services, for inclusion in the report, the workload
21 requirements for processing the certificates of franchise
22 authority. In addition, the Department of State shall provide
23 the number of applications filed for cable and video
24 certificates of franchise authority and the number of
25 amendments received to original applications for franchise
26 certificate authority.

27 610.119 Severability.--If any provision of ss.
28 610.102-610.117 or the application thereof to any person or
29 circumstance is held invalid, such invalidity shall not affect
30 other provisions or application of ss. 610.102-610.117 that
31 can be given effect without the invalid provision or

579-2139A-07

1 application, and to this end the provisions of ss.

2 610.102-610.117 are severable.

3 Section 7. Paragraph (a) of subsection (3) of section
4 350.81, Florida Statutes, is amended to read:

5 350.81 Communications services offered by governmental
6 entities.--

7 (3)(a) A governmental entity that provides a cable or
8 video service shall comply with the Cable Communications
9 Policy Act of 1984, 47 U.S.C. ss. 521 et seq., the regulations
10 issued by the Federal Communications Commission under the
11 Cable Communications Policy Act of 1984, 47 U.S.C. ss. 521 et
12 seq., and all applicable state and federal rules and
13 regulations, including, but not limited to, ~~s. 166.046~~ and
14 those provisions of chapters 202, 212, ~~and~~ 337, and 610 that
15 ~~which~~ apply to a provider of the services.

16 Section 8. Section 364.0361, Florida Statutes, is
17 amended to read:

18 364.0361 Local government authority; nondiscriminatory
19 exercise.--A local government shall treat each
20 telecommunications company in a nondiscriminatory manner when
21 exercising its authority to grant franchises to a
22 telecommunications company or to otherwise establish
23 conditions or compensation for the use of rights-of-way or
24 other public property by a telecommunications company. A local
25 government may not directly or indirectly regulate the terms
26 and conditions, including, but not limited to, the operating
27 systems, qualifications, services, service quality, service
28 territory, and prices, applicable to or in connection with the
29 provision of any voice-over-Internet protocol, regardless of
30 the platform, provider, or protocol, broadband or information
31 service. This section does not relieve a provider from any

Bill No. SB 998

Barcode 814916

579-2139A-07

1 obligations under ~~s. 166.046~~ or s. 337.401.

2 Section 9. Subsections (6), (7), and (8) of section
3 364.051, Florida Statutes, are amended to read:

4 364.051 Price regulation.--

5 ~~(6) After a local exchange telecommunications company
6 that has more than 1 million access lines in service has
7 reduced its intrastate switched network access rates to
8 parity, as defined in s. 364.164(5), the local exchange
9 telecommunications company's retail service quality
10 requirements that are not already equal to the service quality
11 requirements imposed upon the competitive local exchange
12 telecommunications companies shall at the company's request to
13 the commission be no greater than those imposed upon
14 competitive local exchange telecommunications companies unless
15 the commission, within 120 days after the company's request,
16 determines otherwise. In such event, the commission may grant
17 some reductions in service quality requirements in some or all
18 of the company's local calling areas. The commission may not
19 impose retail service quality requirements on competitive
20 local exchange telecommunications companies greater than those
21 existing on January 1, 2003.~~

22 ~~(7) After a local exchange telecommunications company
23 that has more than 1 million access lines in service has
24 reduced its intrastate switched network access rates to
25 parity, as defined in s. 364.164(5), the local exchange
26 telecommunications company may petition the commission for
27 regulatory treatment of its retail services at a level no
28 greater than that imposed by the commission upon competitive
29 local exchange telecommunications companies. The local
30 exchange telecommunications company shall:~~

31 ~~(a) Show that granting the petition is in the public~~

579-2139A-07

1 ~~interest;~~

2 ~~(b) Demonstrate that the competition faced by the~~
3 ~~company is sufficient and sustainable to allow such~~
4 ~~competition to supplant regulation by the commission; and~~

5 ~~(c) Reduce its intrastate switched network access~~
6 ~~rates to its local reciprocal interconnection rate upon the~~
7 ~~grant of the petition.~~

8

9 ~~The commission shall act upon such a petition within 9 months~~
10 ~~after its filing with the commission. The commission may not~~
11 ~~increase the level of regulation for competitive local~~
12 ~~exchange telecommunications companies to a level greater than~~
13 ~~that which exists on the date the local exchange~~
14 ~~telecommunications company files its petition.~~

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

21 Section 10. Section 364.163, Florida Statutes, is
22 amended to read:

23 364.163 Network access services.--For purposes of this
24 section, the term "network access service" is defined as any
25 service provided by a local exchange telecommunications
26 company to a telecommunications company certificated under
27 this chapter or licensed by the Federal Communications
28 Commission to access the local exchange telecommunications
29 network, excluding the local interconnection arrangements in
30 s. 364.16 and the resale arrangements in s. 364.161. Each
31 local exchange telecommunications company subject to s.

Bill No. SB 998

Barcode 814916

579-2139A-07

1 364.051 shall maintain tariffs with the commission containing
2 the terms, conditions, and rates for each of its network
3 access services. The switched network access service rates in
4 effect immediately prior to July 1, 2007, shall be, and shall
5 remain, capped at that level until July 1, 2010. An
6 interexchange telecommunications company may not institute any
7 intrastate connection fee or any similarly named fee.

8 ~~(1) After a local exchange telecommunications~~
9 ~~company's intrastate switched network access rates are reduced~~
10 ~~to or below parity, as defined in s. 364.164(5), the company's~~
11 ~~intrastate switched network access rates shall be, and shall~~
12 ~~remain, capped for 3 years.~~

13 ~~(2) Any intrastate interexchange telecommunications~~
14 ~~company whose intrastate switched network access rate is~~
15 ~~reduced as a result of the rate adjustments made by a local~~
16 ~~exchange telecommunications company in accordance with s.~~
17 ~~364.164 shall decrease its intrastate long distance revenues~~
18 ~~by the amount necessary to return the benefits of such~~
19 ~~reduction to both its residential and business customers. The~~
20 ~~intrastate interexchange telecommunications company may~~
21 ~~determine the specific intrastate rates to be decreased,~~
22 ~~provided that residential and business customers benefit from~~
23 ~~the rate decreases. Any in-state connection fee or similarly~~
24 ~~named fee shall be eliminated by July 1, 2006, provided that~~
25 ~~the timetable determined pursuant to s. 364.164(1) reduces~~
26 ~~intrastate switched network access rates in an amount that~~
27 ~~results in the elimination of such fee in a revenue-neutral~~
28 ~~manner. The tariff changes, if any, made by the intrastate~~
29 ~~interexchange telecommunications company to carry out the~~
30 ~~requirements of this subsection shall be presumed valid and~~
31 ~~shall become effective on 1 day's notice.~~

579-2139A-07

1 ~~(3) The commission shall have continuing regulatory~~
2 ~~oversight of intrastate switched network access and customer~~
3 ~~long distance rates for purposes of determining the~~
4 ~~correctness of any rate decrease by a telecommunications~~
5 ~~company resulting from the application of s. 364.164 and~~
6 ~~making any necessary adjustments to those rates.~~

7 Section 11. Subsection (4) is added to section
8 364.385, Florida Statutes, to read:

9 364.385 Saving clauses.--

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

18 Section 12. Sections 166.046 and 364.164, Florida
19 Statutes, are repealed.

20 Section 13. This act shall take effect upon becoming a
21 law.

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