

1           Section 18. Subsection (1) of section 364.335, Florida  
2 Statutes, is amended to read:

3           364.335 Application for certificate.--

4           (1) Each applicant for a certificate shall:

5           (a) Provide all information required by rule or order  
6 of the commission, which may include a detailed inquiry into  
7 the ability of the applicant to provide service, a detailed  
8 inquiry into the territory and facilities involved, and a  
9 detailed inquiry into the existence of service from other  
10 sources within geographical proximity to the territory applied  
11 for.

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

15           (c) File the application fee required by the  
16 commission in an amount not to exceed ~~\$500~~\$250. Such fees  
17 shall be deposited in accordance with s. 350.113.

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

21           Section 19. Section 364.336, Florida Statutes, is  
22 amended to read:

23           364.336 Regulatory assessment fees.--Notwithstanding  
24 any provisions of law to the contrary, each telecommunications  
25 company licensed or operating under this chapter, for any part  
26 of the preceding 6-month period, shall pay to the commission,  
27 within 30 days following the end of each 6-month period, a fee  
28 that may not exceed 0.25 percent annually of its gross  
29 operating revenues derived from intrastate business, except,  
30 for purposes of this section and the fee specified in s.  
31 350.113(3), any amount paid to another telecommunications

1 company for the use of any telecommunications network shall be  
2 deducted from the gross operating revenue for purposes of  
3 computing the fee due. The commission shall by rule assess a  
4 minimum fee in an amount up to \$1,000. The minimum amount may  
5 vary depending on the type of service provided by the  
6 telecommunications company, and shall, to the extent  
7 practicable, be related to the cost of regulating such type of  
8 company. Differences, if any, between the amount paid in any  
9 6-month period and the amount actually determined by the  
10 commission to be due shall, upon motion by the commission, be  
11 immediately paid or refunded. Fees under this section may not  
12 be less than \$50 annually. Such fees shall be deposited in  
13 accordance with s. 350.113. The commission may by rule  
14 establish criteria for payment of the regulatory assessment  
15 fee on an annual basis rather than on a semiannual basis.

16 Section 20. Subsection (6) of section 196.012, Florida  
17 Statutes, is amended to read:

18 196.012 Definitions.--For the purpose of this chapter,  
19 the following terms are defined as follows, except where the  
20 context clearly indicates otherwise:

21 (6) Governmental, municipal, or public purpose or  
22 function shall be deemed to be served or performed when the  
23 lessee under any leasehold interest created in property of the  
24 United States, the state or any of its political subdivisions,  
25 or any municipality, agency, special district, authority, or  
26 other public body corporate of the state is demonstrated to  
27 perform a function or serve a governmental purpose which could  
28 properly be performed or served by an appropriate governmental  
29 unit or which is demonstrated to perform a function or serve a  
30 purpose which would otherwise be a valid subject for the  
31 allocation of public funds. For purposes of the preceding

1 sentence, an activity undertaken by a lessee which is  
2 permitted under the terms of its lease of real property  
3 designated as an aviation area on an airport layout plan which  
4 has been approved by the Federal Aviation Administration and  
5 which real property is used for the administration, operation,  
6 business offices and activities related specifically thereto  
7 in connection with the conduct of an aircraft full service  
8 fixed base operation which provides goods and services to the  
9 general aviation public in the promotion of air commerce shall  
10 be deemed an activity which serves a governmental, municipal,  
11 or public purpose or function. Any activity undertaken by a  
12 lessee which is permitted under the terms of its lease of real  
13 property designated as a public airport as defined in s.  
14 332.004(14) by municipalities, agencies, special districts,  
15 authorities, or other public bodies corporate and public  
16 bodies politic of the state, a spaceport as defined in s.  
17 331.303(19), or which is located in a deepwater port  
18 identified in s. 403.021(9)(b) and owned by one of the  
19 foregoing governmental units, subject to a leasehold or other  
20 possessory interest of a nongovernmental lessee that is deemed  
21 to perform an aviation, airport, aerospace, maritime, or port  
22 purpose or operation shall be deemed an activity that serves a  
23 governmental, municipal, or public purpose. The use by a  
24 lessee, licensee, or management company of real property or a  
25 portion thereof as a convention center, visitor center, sports  
26 facility with permanent seating, concert hall, arena, stadium,  
27 park, or beach is deemed a use that serves a governmental,  
28 municipal, or public purpose or function when access to the  
29 property is open to the general public with or without a  
30 charge for admission. If property deeded to a municipality by  
31 the United States is subject to a requirement that the Federal

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1 Government, through a schedule established by the Secretary of  
2 the Interior, determine that the property is being maintained  
3 for public historic preservation, park, or recreational  
4 purposes and if those conditions are not met the property will  
5 revert back to the Federal Government, then such property  
6 shall be deemed to serve a municipal or public purpose. The  
7 term "governmental purpose" also includes a direct use of  
8 property on federal lands in connection with the Federal  
9 Government's Space Exploration Program or spaceport activities  
10 as defined in s. 212.02(22). Real property and tangible  
11 personal property owned by the Federal Government or the  
12 Florida Space Authority and used for defense and space  
13 exploration purposes or which is put to a use in support  
14 thereof shall be deemed to perform an essential national  
15 governmental purpose and shall be exempt. "Owned by the  
16 lessee" as used in this chapter does not include personal  
17 property, buildings, or other real property improvements used  
18 for the administration, operation, business offices and  
19 activities related specifically thereto in connection with the  
20 conduct of an aircraft full service fixed based operation  
21 which provides goods and services to the general aviation  
22 public in the promotion of air commerce provided that the real  
23 property is designated as an aviation area on an airport  
24 layout plan approved by the Federal Aviation Administration.  
25 For purposes of determination of "ownership," buildings and  
26 other real property improvements which will revert to the  
27 airport authority or other governmental unit upon expiration  
28 of the term of the lease shall be deemed "owned" by the  
29 governmental unit and not the lessee. Providing two-way  
30 telecommunications services to the public for hire by the use  
31 of a telecommunications facility, as defined in s. 364.02(15)

1 ~~s. 364.02(14)~~, and for which a certificate is required under  
2 chapter 364 does not constitute an exempt use for purposes of  
3 s. 196.199, unless the telecommunications services are  
4 provided by the operator of a public-use airport, as defined  
5 in s. 332.004, for the operator's provision of  
6 telecommunications services for the airport or its tenants,  
7 concessionaires, or licensees, or unless the  
8 telecommunications services are provided by a public hospital.  
9 However, property that is being used to provide such  
10 telecommunications services on or before October 1, 1997,  
11 shall remain exempt, but such exemption expires October 1,  
12 2004.

13 Section 21. Paragraph (b) of subsection (1) of section  
14 199.183, Florida Statutes, is amended to read:

15 199.183 Taxpayers exempt from annual and nonrecurring  
16 taxes.--

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

21 (b) Property related to the provision of two-way  
22 telecommunications services to the public for hire by the use  
23 of a telecommunications facility, as defined in s. 364.02(15)  
24 ~~s. 364.02(14)~~, and for which a certificate is required under  
25 chapter 364, when the ~~such~~ service is provided by any county,  
26 municipality, or other political subdivision of the state. Any  
27 immunity of any political subdivision of the state or other  
28 entity of local government from taxation of the property used  
29 to provide telecommunication services that is taxed as a  
30 result of this paragraph is hereby waived. However, intangible  
31 personal property related to the provision of ~~such~~

1 telecommunications services provided by the operator of a  
2 public-use airport, as defined in s. 332.004, for the  
3 operator's provision of telecommunications services for the  
4 airport or its tenants, concessionaires, or licensees, and  
5 intangible personal property related to the provision of ~~such~~  
6 telecommunications services provided by a public hospital, are  
7 exempt from taxation under this chapter.

8 Section 22. Subsection (6) of section 212.08, Florida  
9 Statutes, is amended to read:

10 212.08 Sales, rental, use, consumption, distribution,  
11 and storage tax; specified exemptions.--The sale at retail,  
12 the rental, the use, the consumption, the distribution, and  
13 the storage to be used or consumed in this state of the  
14 following are hereby specifically exempt from the tax imposed  
15 by this chapter.

16 (6) EXEMPTIONS; POLITICAL SUBDIVISIONS.--There are  
17 also exempt from the tax imposed by this chapter sales made to  
18 the United States Government, a state, or any county,  
19 municipality, or political subdivision of a state when payment  
20 is made directly to the dealer by the governmental entity.  
21 This exemption shall not inure to any transaction otherwise  
22 taxable under this chapter when payment is made by a  
23 government employee by any means, including, but not limited  
24 to, cash, check, or credit card when that employee is  
25 subsequently reimbursed by the governmental entity. This  
26 exemption does not include sales of tangible personal property  
27 made to contractors employed either directly or as agents of  
28 any such government or political subdivision thereof when such  
29 tangible personal property goes into or becomes a part of  
30 public works owned by such government or political  
31 subdivision. A determination whether a particular transaction

1 is properly characterized as an exempt sale to a government  
2 entity or a taxable sale to a contractor shall be based on the  
3 substance of the transaction rather than the form in which the  
4 transaction is cast. The department shall adopt rules that  
5 give special consideration to factors that govern the status  
6 of the tangible personal property before its affixation to  
7 real property. In developing these rules, assumption of the  
8 risk of damage or loss is of paramount consideration in the  
9 determination. This exemption does not include sales, rental,  
10 use, consumption, or storage for use in any political  
11 subdivision or municipality in this state of machines and  
12 equipment and parts and accessories therefor used in the  
13 generation, transmission, or distribution of electrical energy  
14 by systems owned and operated by a political subdivision in  
15 this state for transmission or distribution expansion.  
16 Likewise exempt are charges for services rendered by radio and  
17 television stations, including line charges, talent fees, or  
18 license fees and charges for films, videotapes, and  
19 transcriptions used in producing radio or television  
20 broadcasts. The exemption provided in this subsection does not  
21 include sales, rental, use, consumption, or storage for use in  
22 any political subdivision or municipality in this state of  
23 machines and equipment and parts and accessories therefor used  
24 in providing two-way telecommunications services to the public  
25 for hire by the use of a telecommunications facility, as  
26 defined in s. 364.02(15) ~~s. 364.02(14)~~, and for which a  
27 certificate is required under chapter 364, which facility is  
28 owned and operated by any county, municipality, or other  
29 political subdivision of the state. Any immunity of any  
30 political subdivision of the state or other entity of local  
31 government from taxation of the property used to provide

1 telecommunication services that is taxed as a result of this  
2 section is hereby waived. However, the exemption provided in  
3 this subsection includes transactions taxable under this  
4 chapter which are for use by the operator of a public-use  
5 airport, as defined in s. 332.004, in providing such  
6 telecommunications services for the airport or its tenants,  
7 concessionaires, or licensees, or which are for use by a  
8 public hospital for the provision of such telecommunications  
9 services.

10 Section 23. Subsection (8) of section 290.007, Florida  
11 Statutes, is amended to read:

12 290.007 State incentives available in enterprise  
13 zones.--The following incentives are provided by the state to  
14 encourage the revitalization of enterprise zones:

15 (8) Notwithstanding any law to the contrary, the  
16 Public Service Commission may allow public utilities and  
17 telecommunications companies to grant discounts of up to 50  
18 percent on tariffed rates for services to small businesses  
19 located in an enterprise zone designated pursuant to s.  
20 290.0065. Such discounts may be granted for a period not to  
21 exceed 5 years. For purposes of this subsection, the term  
22 "public utility" has the same meaning as in s. 366.02(1) and  
23 the term "telecommunications company" has the same meaning as  
24 in s. 364.02(14) ~~s. 364.02(13)~~.

25 Section 24. Subsection (3) of section 350.0605,  
26 Florida Statutes, is amended to read:

27 350.0605 Former commissioners and employees;  
28 representation of clients before commission.--

29 (3) For a period of 2 years following termination of  
30 service on the commission, a former member may not accept  
31 employment by or compensation from a business entity which,



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1 directly or indirectly, owns or controls a public utility  
2 regulated by the commission, from a public utility regulated  
3 by the commission, from a business entity which, directly or  
4 indirectly, is an affiliate or subsidiary of a public utility  
5 regulated by the commission or is an actual business  
6 competitor of a local exchange company or public utility  
7 regulated by the commission and is otherwise exempt from  
8 regulation by the commission under ss. 364.02(14) ~~364.02(13)~~  
9 and 366.02(1), or from a business entity or trade association  
10 that has been a party to a commission proceeding within the 2  
11 years preceding the member's termination of service on the  
12 commission. This subsection applies only to members of the  
13 Florida Public Service Commission who are appointed or  
14 reappointed after May 10, 1993.

15 Section 25. Subsection (4) of section 364.602, Florida  
16 Statutes, is amended to read:

17 364.602 Definitions.--For purposes of this part:

18 (4) "Originating party" means any person, firm,  
19 corporation, or other entity, including a telecommunications  
20 company or a billing clearinghouse, that provides any  
21 telecommunications service or information service to a  
22 customer or bills a customer through a billing party, except  
23 the term "originating party" does not include any entity  
24 specifically exempted from the definition of  
25 "telecommunications company" as provided in s. 364.02(14) ~~and~~  
26 ~~364.02(13)~~ .

27 Section 26. Subsection (5) of section 489.103, Florida  
28 Statutes, is amended to read:

29 489.103 Exemptions.--This part does not apply to:

30 (5) Public utilities, including special gas districts  
31 as defined in chapter 189, telecommunications companies as

1 defined in s. 364.02(14) ~~s. 364.02(13)~~, and natural gas  
2 transmission companies as defined in s. 368.103(4), on  
3 construction, maintenance, and development work performed by  
4 their employees, which work, including, but not limited to,  
5 work on bridges, roads, streets, highways, or railroads, is  
6 incidental to their business. The board shall define, by rule,  
7 the term "incidental to their business" for purposes of this  
8 subsection.

9 Section 27. This act may not be construed to limit the  
10 rights of local government or the duties of providers of cable  
11 service to comply with any and all requirements of federal,  
12 state, or local law, including, but not limited to, 47 U.S.C.  
13 s.541, s. 166.046, and s. 337.401.

14 Section 28. Subsection (4) of section 364.051, Florida  
15 Statutes, is amended to read:

16 364.051 Price regulation.--

17 (4) (a) ~~Notwithstanding the provisions of~~ subsection  
18 (2), any local exchange telecommunications company that  
19 believes circumstances have changed substantially to justify  
20 any increase in the rates for basic local telecommunications  
21 services may petition the commission for a rate increase, but  
22 the commission shall grant the ~~such~~ petition only after an  
23 opportunity for a hearing and a compelling showing of changed  
24 circumstances. The costs and expenses of any government  
25 program or project required in part II ~~may~~ shall not be  
26 recovered under this subsection unless the ~~such~~ costs and  
27 expenses are incurred in the absence of a bid and subject to  
28 carrier-of-last-resort obligations as provided for in part II.  
29 The commission shall act upon the ~~any such~~ petition within 120  
30 days after ~~of~~ its filing.

31

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

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

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

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

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

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

27           6. **The commission may order the company to add an**  
28 **equal line-item charge per access line to the billing**  
29 **statement of the company's retail basic local**  
30 **telecommunications service customers, its retail nonbasic**  
31 **telecommunications service customers, and, to the extent the**

1 commission determines appropriate, its wholesale loop  
2 unbundled network element customers. At the end of the  
3 collection period, the commission shall verify that the  
4 collected amount does not exceed the amount authorized by the  
5 order. If collections exceed the ordered amount, the  
6 commission shall order the company to refund the excess.  
7       7. In order to qualify for filing a petition under  
8 this paragraph, a company with one million or more access  
9 lines, but fewer than three million access lines, must have  
10 tropical-system-related costs and expenses exceeding \$1.5  
11 million, and a company with three million or more access lines  
12 must have tropical-system-related costs and expenses of \$5  
13 million or more. A company with fewer than one million access  
14 lines is not required to meet a minimum damage threshold in  
15 order to qualify to file a petition under this paragraph.  
16       8. A company may file only one petition for storm  
17 recovery in any 12-month period for the previous storm season,  
18 but the application may cover damages from more than one named  
19 tropical system.  
20  
21 This paragraph is not intended to adversely affect the  
22 commission's consideration of any petition for an increase in  
23 basic rates to recover costs related to storm damage which was  
24 filed before the effective date of this act.  
25       Section 29. If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 invalidity does not affect other provisions or applications of  
28 the act which can be given effect without the invalid  
29 provision or application, and to this end the provisions of  
30 this act are severable.  
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1           Section 30. This act shall take effect upon becoming a  
2 law.  
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