Report on the Status of Competition in the Telecommunications Industry

As of December 31, 2009

Florida Public Service Commission
Division of Regulatory Analysis

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List of Acronyms

3G	Third Generation (wireless)
4G	Fourth Generation (wireless)
ADA	Americans with Disabilities Act
ARRA	American Recovery and Reinvestment Act
ADSL	Asynchronous Digital Subscriber Line
ARMIS	Automated Reporting Management Information System
BDIA	Broadband Data Improvement Act
BEBR	Bureau of Economic and Business Research
BIP	Broadband Initiatives Program
BTOP	Broadband Technology Opportunities Program
Bus	Business
CAF	Connect America Fund
C.F.R.	Code of Federal Regulations
CLEC	Competitive Local Exchange Company
CMRS	Commercial Mobile Radio Service
DCF	Department of Children and Families
DMS	Department of Management Services
DOCSIS	Data Over Cable Service Interface Specification
DOH	Department of Health
DSL	Digital Subscriber Line
ETC	Eligible Telecommunications Carrier
F.A.C.	Florida Administrative Code
FCC	Federal Communications Commission
FCTA	Florida Cable Telecommunications Association
FiOS	Verizon's trademark name for its fiber-to-the-home package of services
FNPRM	Further Notice of Proposed Rulemaking
FPSC	Florida Public Service Commission, the Commission
F.S.	Florida Statutes
FTTH	Fiber to the Home
FTTN	Fiber to the Node
Gbps	Gigabits per second
IBEC	International Broadband Electric Communications
ILEC	Incumbent Local Exchange Company
interMTA	Refers to traffic between the Metropolitan Trading Areas (MTAs)
IP	Internet Protocol
ITS	Indiantown Telephone Company
IXC	Interexchange Company
kbps	kilobits per second
LEC	Local Exchange Company
LNP	Local Number Portability
LTE	Long Term Evolution
MB	Megabytes

Mbps	Megabits per second
NARUC	National Association of Regulatory Utility Commissioners
NBP	National Broadband Plan
NFBA	North Florida Broadband Authority
NOI	Notice of Inquiry
NPRM	Notice of Proposed Rulemaking
NTIA	National Telecommunications and Information Administration
OPC	Office of Public Counsel
PRTC	Puerto Rico Telephone Company
Res	Residential
SGP	Service Guarantee Program
TDS	TDS Telecom / Quincy
TRRO	Triennial Review Remand Order
UNE	Unbundled Network Elements
USF	Universal Service Fund
VoIP	Voice over Internet Protocol
VRS	Video Relay Service
WiMAX	Worldwide Interoperability for Microwave Access

Executive Summary

This report fulfills the statutory requirements set forth in Section 364.386 and Section 364.161(4), Florida Statutes (F.S.), which require the Florida Public Service Commission (the Commission or FPSC) to report on "the status of competition in the telecommunications industry" to the Legislature by August 1 of each year. The statute requires that the Commission address specific topic areas within the realm of competition. On February 16, 2010, data requests were sent to the 10 incumbent local exchange companies (ILECs) and 301 competitive local exchange companies (CLECs) certificated by the Commission to operate in Florida, requesting data as of December 31, 2009.

Analysis of the data produced the following conclusions:

- Local competition has had little, if any, impact on the availability of universal service and that residential customers continue to have options for telephone service.
- While some CLECs have been able to provide functionally equivalent service, intermodal competition has made competing in the wireline telecommunications market more difficult.
- Florida customers are able to obtain functionally equivalent services at comparable rates, terms, and conditions.
- Rate increases, in general, have had a negligible impact on the overall affordability of telephone service.
- The Commission finds no need to recommend changes to the definition of basic local service at this time.

Wireline Competition

The following data relate exclusively to the ILEC and CLEC wireline market and do not reflect the number of wireless and Voice over Internet Protocol (VoIP) subscribers in Florida. Overall, the residential market, which accounts for 55 percent of all access lines, is slightly larger than the business market in Florida. The report addresses changes in the telecommunications market for the period January 1, 2009, through December 31, 2009. Significant findings relating to the wireline market as of December 2009 include:

CLEC Market Share

- CLECs provided service with a total (residential and business) market share of 14 percent, an increase from 12 percent in December 2008.
- CLEC residential market share increased to 4 percent, up from 3 percent in December 2008.

- CLEC business market share remained at 25 percent in 2008 and 2009.[1]

CLEC Access Lines

- CLEC business lines accounted for 83 percent of all CLEC access lines in 2009.

- Total CLEC access lines decreased by 2 percent from December 31, 2008 to December 31, 2009. This percentage reflects a 32 percent increase in residential lines and a decrease in business lines of 7 percent.

- CLEC Residential access lines increased 32 percent for the CLECs in 2009.

- While the market share of CLEC business lines remained the same from December 31, 2008 to December 31, 2009, access lines decreased 7 percent in 2009.

ILEC Access Lines

- ILEC residential lines accounted for 61 percent of all ILEC access lines in 2009.

- Total ILEC access lines decreased by 12 percent from December 31, 2008 to December 31, 2009. This percentage reflects a 15 percent decrease in residential lines and a 7 percent decrease in business lines.

- Residential access lines decreased 16 percent for AT&T, 17 percent for Verizon, and 12 percent for CenturyLink from December 31, 2008 to December 31, 2009.

- Residential access lines decreased 4 percent for the rural ILECs from December 31, 2008 to December 31, 2009. This decline followed a 7 percent decrease in lines from December 2007 to December 2008.

- AT&T, Verizon, and CenturyLink experienced a decrease in business access lines between 2008 and 2009, while the rural ILECs showed a slight increase from 2008 to 2009.

[1] Since 2007, access lines of the ILEC-affiliated CLECs (and those of the CenturyLink-affiliated CLEC) are accounted for by assigning them as ILEC lines if they serve customers within the affiliated ILEC territory or CLEC lines if they serve customers outside the affiliated ILEC territory.

Figure E-1. Access Line Composition by Company Type

Source: Responses to FPSC data requests (2010)

Figure E-2. Access Line Composition for Residential & Business Line Types

Source: Responses to FPSC data requests (2010)

Intermodal Competition

Wireless and VoIP services compete with traditional wireline service and represent a significant portion of today's communications market in Florida. Broadband service also provides the basis for some VoIP services. These three services are not subject to FPSC jurisdiction, and Florida-specific data are not readily available. However, the number of wireless and VoIP customers in Florida dwarfs the number of wireline access lines served by CLECs. Forty-seven CLECs reported providing VoIP service and supplied VoIP line data in response to

the 2010 FPSC Local Competition data request. Three ILECs furnished VoIP data. Highlights relating to VoIP, wireless, and broadband services include:

Wireless

- Approximately 16.2 million wireless handsets were in service in Florida as of December 2008, the most current data available.[2]

- The Centers for Disease Control (CDC) estimates that nearly 24.5 percent of U.S. households are wireless-only as of December 2009.[3]

- Prepaid market share grew to 20.9 percent in 2009, representing a growth rate that was nearly 4 times greater than post-paid wireless phone plans.[4]

VoIP

- An estimated 1.8 million residential VoIP subscribers were in Florida as of December 2009, an increase of 12.5 percent over the 1.6 million estimated in 2008.

- Forty-seven CLECs and 3 ILECs voluntarily reported 252,207 VoIP lines to the FPSC in response to its 2010 Local Competition data request.

- The Florida Cable Telecommunications Association (FCTA) reported 1.4 million residential cable digital voice (VoIP) subscribers as of December 2009, an increase of 15 percent from the number reported for December 2008.

Broadband

- Federal Communications Commission (FCC) statistics show that Florida's broadband connections reached approximately 6.7 million as of December 2008.[5]

- Over half of those connections are at download speeds of 3 Mbps or greater; however, fewer than 10 percent of those connections are greater than or equal to 10 Mbps.

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[2] FCC, "Local Telephone Competition: Status as of December 31, 2008,"June 2010, Table 17, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-299052A1.pdf>, accessed on July 8, 2010.
[3] S.J. Blumberg, J.V. Luke, "Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July - December 2009," December 16, 2009, p. 1, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201005.pdf>, accessed on May 12, 2010.
[4] Craig Moffet, "Wireless 2010: Like Déjà vu, All Over Again Industry Growth Now Below 3 percent, and Estimates (Again) Look Too High," *Bernstein Research*, February 26, 2010, <http://reports.bernsteinresearch.com/researchlinks/view.aspx?eid=xzB2wBUF31cKyEnY7cnXBoNUPcAFcejNfPrtWnFC6hUPBkdjbKQ7Gi2gmPiBF9rs>, accessed on March 12, 2010.
[5] FCC, "High-Speed Services for Internet Access: Status as of December 31, 2008," released February 2010, Table 14, <http://www.fcc.gov/Daily_Releases/Daily_Business/2010/db0212/DOC-296239A1.pdf>, accessed April 19, 2010.

- Residential subscribership in Florida reached 63 percent as of December 31, 2008, which is 4 percent below the current national average.[6]

- There are 93 providers of high-speed Internet access in Florida, including 44 digital subscriber line (DSL) providers, 19 cable providers, 31 fiber providers, and 6 mobile wireless providers.[7]

- Wireless broadband services represent the fastest growing segment of the broadband market.

Florida's communications market continues to exhibit competitive characteristics. Estimates of wireless-only households have increased from prior years, and in the most recent reporting period, Florida cable companies expanded the number of VoIP customers served. These facts, coupled with continued residential access line losses by ILECs, suggest an active market for voice communications services in many areas of Florida.

[6] Ibid.
[7] The sum of the individual parts exceeds the total because of overlap of service offerings.

Chapter I. Introduction and Background

Chapter 364, Florida Statutes (F.S.), establishes the basis by which the Florida Public Service Commission (FPSC or the Commission) regulates wireline telecommunications companies. Commission oversight is primarily focused on traditional local telephone companies, known as incumbent local exchange companies (ILECs). Competitors to the ILECs, known as competitive local exchange companies (CLECs), and interexchange companies (IXCs) are subject to minimal regulation. The Commission does not regulate wireless telecommunications, broadband services, or VoIP services.

Chapter 364, F.S., requires the Commission to prepare and deliver a report on "the status of competition in the telecommunications industry" to the President of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders of the Senate and the House of Representatives on August 1 of each year. Section 364.386, F.S., requires that the report address the following six issues:

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

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

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

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

5. What additional services, if any, should be included in the definition of basic local telecommunications services, taking into account advances in technology and market demand?

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

A 1997 amendment to Section 364.161(4), F.S., also requires a summary of all complaints filed by CLECs against ILECs. The list of complaints is found in Appendix D on page 117.

As of December 31, 2009, 10 ILECs and 301 CLECs were certificated by the Commission to operate in Florida. Of the 301 certificated CLECs, only 128 provided service.

A. Provisions and Goals of Chapter 364, Florida Statutes, and the Telecommunications Act of 1996

1. Chapter 364, Florida Statutes

In 1995, the Florida Legislature amended Chapter 364, F.S., to allow for competition in the state's local telecommunications markets. The Legislature found that "the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications services, encourage technological innovation, and encourage investment in telecommunications infrastructure."

CLECs are subject to minimal Commission oversight. Each CLEC is required to file a price list if it offers basic local telecommunications service. In addition, Section 364.337(2), F.S., states in part, "The basic local telecommunications service provided by a competitive local exchange telecommunications company must include access to operator services, '911' services, and relay services for the hearing impaired." If a CLEC provides basic local telecommunications services, the company must provide a flat-rate pricing option for that service. The statute states that "mandatory measured service for basic local telecommunications services shall not be imposed."

In 2009, the Florida Legislature revised parts of Chapter 364, F.S., to further streamline the oversight of ILECs by the FPSC. The new law redefined basic service to include only single-line flat-rate residential service without any additional features, either priced individually or as part of a combination of services (including unregulated services such as wireless or video services). Flat-rate, single-line business subscribers and multi-line residential subscribers are no longer considered basic service customers. In addition, the statute no longer requires companies to file tariffs, now referred to as schedules, with the FPSC. Companies are now permitted to publish electronic schedules containing rates, terms, and conditions of service.

2. Federal Telecommunications Act of 1996

The federal Telecommunications Act of 1996 (the 1996 Act or Act) established a national framework to enable CLECs to enter the local telecommunications marketplace. The Federal Communications Commission's (FCC's) Local Competition Order specified that opening the local exchange and exchange access markets to competition was "intended to pave the way for enhanced competition in all telecommunications markets."[8] The FCC expected opening markets to "blur traditional industry distinctions and bring new packages of services, lower prices, and increased innovation to American consumers." Not only have CLECs entered the local market, but less traditional providers, such as cable, wireless, and broadband communications providers, have also entered this market using their own facilities for new technologies to compete against traditional wireline providers for a share of the market.

[8] FCC 96-325, CC Docket No. 96-95, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, released August 8, 1996, ¶ 4.

The 1996 Act established three methods by which CLECs could enter the local exchange market: resale, leasing of unbundled network elements (UNEs), and investing in their own facilities. CLECs must either use an ILEC's local loops, build their own facilities, purchase or lease facilities from other CLECs, or enable facilities currently in place (for example, cable networks) to provide local telephone service. The 1996 Act did not address market entry strategies for non-wireline competitors.

B. Methodology

As in prior years, the Commission prepared this report using responses by CLECs and ILECs to the Commission's data requests. Commission staff also used additional resources, including FCC reports, industry reports, and financial analyses.

The response rate for CLECs for this report was 98 percent. The response rate for ILECs remains steady at 100 percent. Companies that did not respond by April 7, 2010, were mailed a second reminder letter. Commission staff also telephoned and e-mailed the CLECs that did not respond as of the April 15 deadline. Enforcement actions are underway against CLECs that did not respond to the 2010 data request. It is unlikely that a 100 percent CLEC response rate can be achieved because some CLECs go out of business but do not notify the Commission; however, the Commission's goal is to achieve a response rate as close to 100 percent as possible.

The analyses that follow are based on the information provided by the ILECs and the reporting CLECs. As in previous years, precise market share calculations are not possible because some CLECs failed to respond. The FPSC believes the collective market share of the CLECs failing to file is statistically insufficient to have a significant effect on the analyses.

The Commission recognizes the limitations of data-gathering efforts from wireless, VoIP, and broadband providers. While some providers of these services voluntarily furnished data to enhance the accuracy of this report, these providers are beyond the jurisdiction of the Commission and cannot be compelled to contribute.

Chapter II. Communications Market Overview

A. Economy

The recession that began in the second half of 2008 continued through the first half of 2009, affecting all sectors of the economy, including telecommunications. During the first quarter of 2009, the economy contracted 6.4 percent (as measured by gross domestic product), but by the second quarter of 2009, the contraction had slowed to 0.7 percent.[9] While the economy began to grow again in the third and fourth quarters of 2009, consumer confidence and unemployment limited economic growth.

Florida's economy has continued to struggle throughout 2009. The unemployment rate in Florida was worse than the national average during each month of 2009, and the disparity has widened in the first four months of 2010.[10] In April 2010, the unemployment rate in Florida reached 12 percent, compared to the national average of 9.9 percent.

After a one-year decline, Florida's population is estimated to have increased by 23,000 residents by April 1, 2010, compared to a year earlier.[11] Population statewide dropped in 2009, for the first time in more than half a century, by about 57,000 residents. Population experts at the University of Florida's Bureau of Economic and Business Research (BEBR) suggest that the decline appears to be a one-year event triggered by the recession. BEBR estimates that Florida's population will have grown to about 18.8 million in 2010.

During 2009, many consumers sought to reduce discretionary spending by forgoing the purchase of some products or services, including telecommunications and information services. The economy was likely a contributing factor to Florida ILECs losing approximately 1 million access lines, or roughly 11 percent of their wireline market in 2008 and then again in 2009. By comparison, competitive carriers lost approximately 21,000 access lines in 2009. This loss represents a two percent decline in the CLEC wireline market. Nationally, AT&T and Verizon have offset some access line losses through increased wireless subscriptions.

B. Incumbent Carriers

AT&T, CenturyLink, and Verizon are the largest ILECs providing wireline service in Florida. All of these providers continued to experience access line losses in both the residential and business sectors of the national wireline market in 2009. Verizon and AT&T are also the largest wireless carriers nationwide. Each increased wireless subscribership in 2009, but at a

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[9] "Gross Domestic Product, 1st quarter 2010 (advanced estimate)," U.S. Department of Commerce, Bureau of Economic Analysis News Release, April 30, 2010, <http://www.bea.gov/newsreleases/national/gdp/2010/pdf/gdp1q10_adv.pdf>, accessed on May 17, 2010.

[10] United States Department of Labor, Bureau of Labor Statistics, <http://data.bls.gov/PDQ/servlet/SurveyOutputServlet?data_tool=latest_numbers&series_id=LASST12000003>, & <http://data.bls.gov/PDQ/servlet/SurveyOutputServlet?data_tool=latest_numbers&series_id=LNS14000000>, accessed on May 21, 2010.

[11] Cathy Keen, "Florida expected to start adding residents again after population decline," *University of Florida News*, March 2, 2010, <http://news.ufl.edu/2010/03/02/florida-population-4/>, accessed on May 24, 2010.

reduced rate from the previous year. Various market analysts have begun to question whether wireless subscriptions and revenues, including wireless data, will continue to grow enough to offset wireline revenue losses.[12, 13] As carriers struggle to find market segments of potential growth, many have looked inward for more efficient ways to provide service with fewer employees. AT&T ended 2009 with 281,000 employees,[14] while Verizon had 223,000 employees.[15] Collectively, the remaining national large wireline carriers employ another half a million. But over the past 2 years, AT&T and Verizon have eliminated a combined 54,000 positions according to analysts at Bernstein Research.[16] It is unclear if these reductions will adversely affect customer service and service quality in the intermediate to long-term.

Nationally, AT&T reported losses of approximately 6 million local phone lines from the end of 2008 to the end of 2009. Residential lines fell 13.8 percent during this period and business lines dipped 7.8 percent.[17] Despite these access line losses and the recession, nationally AT&T experienced only a 0.8 percent reduction in operating revenues for 2009 due to revenues from wireless and data services.[18] AT&T's mobile phone revenue increased 10 percent, or $4.5 billion, from 2008 to 2009. Revenue from the mobile phone market represents 40 percent of the company's overall earnings.[19] Total operating revenues for the first quarter of 2010 increased by less than one percent when compared to the first quarter of the previous year.[20] In Florida, residential lines fell by 16 percent for AT&T, and business lines dropped 9.9 percent.[21]

Similarly, Verizon lost approximately 3.6 million access lines nationally in 2009.[22] However, Verizon increased its number of wireline broadband subscribers by 6.3 percent and increased the number of FiOS TV customers by 49 percent to almost 3 million nationwide.[23] With its acquisition of Alltel, Verizon Wireless became the largest wireless service provider in

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[12] Craig Moffett, "Weekend Media Blast: The Process of Elimination," Bernstein Research, April 30, 2010.
[13] Eric Savitz, "U.S. Wireless Voice Market Hits Saturation Point, Auriga Says," Tech Trader Daily, March 30, 2010, <http://blogs.barrons.com/techtraderdaily/2010/03/30/us-wireless-voice-market-hits-saturation-point-auriga-says/>, accessed on May 26, 2010.
[14] AT&T Form 10-K, December 31, 2009, p. 7, <http://www.sec.gov/Archives/edgar/data/732717/000073271710000013/ye09_10k.htm>, accessed on May 24, 2010.
[15] Verizon Communications Inc., Form 10-K, December 31, 2009, p. 3 <http://www.sec.gov/Archives/edgar/data/732712/000119312510041685/d10k.htm>, accessed on May 24, 2010.
[16] Craig Moffett, "Weekend Media Blast: The Process of Elimination," Bernstein Research, April 30, 2010.
[17] AT&T Form 10-K, December 31, 2009, Exhibit 13, p. 11, ,http://www.sec.gov/Archives/edgar/data/732717/000073271710000013/ex13.htm., accessed on May 24, 2010.
[18] Ibid, p. 2.
[19] AT&T Form 10-K, December 31, 2009, p. 6, <http://www.sec.gov/Archives/edgar/data/732717/000073271710000013/ye09_10k.htm>, accessed on May 24, 2010.
[20] AT&T Inc., Form 10-Q, March 31, 2010, p.2, <http://www.sec.gov/Archives/edgar/data/732717/000073271710000033/att1q10.htm>, accessed on May 24, 2010.
[21] Responses to Local Competition Data Request for 2009 and 2010.
[22] Verizon Communications Inc., Form 10-K, December 31, 2009, EX-13, Operating Revenues and Selected Operating Statistics <http://www.sec.gov/Archives/edgar/data/732712/000119312510041685/dex13.htm>, accessed on May 24, 2010.
[23] Verizon Communications Inc., Form 10-K, December 31, 2009, EX-13, Operating Revenues and Selected Operating Statistics, <http://www.sec.gov/Archives/edgar/data/732712/000119312510041685/dex13.htm>, accessed on May 24, 2010.

the United States in terms of the total number of customers and revenues.[24] During 2009, revenues from wireless services offset declining revenue in the traditional wireline voice market. As a result, Verizon's total annual revenues for 2009 increased 10.7 percent from 2008.[25] Its total operating revenues for the first quarter of 2010 increased approximately one percent when compared to first quarter 2009.[26] In Florida, Verizon experienced access line losses that are comparable to those of AT&T in the residential and business markets in terms of percent lost.[27]

CenturyLink lost approximately 700,000 switched access lines in the U.S. in 2009 from the total a year earlier.[28] This figure represents an approximate 9 percent loss in access lines. Unlike AT&T and Verizon, CenturyLink relies on reselling wireless and video services provided by other companies.[29] However, CenturyLink has purchased 69 wireless spectrum licenses nationwide and is considering developing its own wireless voice and data service capabilities.[30] CenturyLink reports that a trial phase of its wireless network will begin in late 2010 or early 2011. CenturyLink's residential access line loss in Florida was 12 percent, and access line losses for business fell by 9 percent.[31]

Each rural carrier also experienced contraction in their respective service areas. Rural carriers in Florida saw their residential access lines fall by 4 percent in 2009.[32] In Florida, Windstream is the largest of the "rural" ILECs. As of December 31, 2009, Windstream served more than 3 million communications customers in 16 states. Additionally, Windstream provides data services to approximately 1.1 million high-speed Internet access customers.[33] Windstream's access lines nationwide increased less than 1 percent in 2009, when most wireline carriers lost access lines.[34] The company also reported that total operating revenues for the first quarter of 2010 increased by 12 percent when compared to the previous year.[35]

In contrast, FairPoint Communications (FairPoint) has had significant financial problems. FairPoint is a rural carrier serving 18 states and has more than 39,000 access lines in Florida. FairPoint's financial problems stem primarily from its acquisition of exchanges from Verizon in

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[24] Verizon Communications Inc., Form 10-K, December 31, 2009, p. 3, <http://www.sec.gov/Archives/edgar/data/732712/000119312510041685/d10k.htm>, accessed on May 24, 2010.
[25] Verizon Communications Inc., Form 10-K, December 31, 2009, EX-13, p. 1, <http://www.sec.gov/Archives/edgar/data/732712/000119312510041685/dex13.htm>, accessed on May 24, 2010.
[26] Verizon Communications Inc., Form 10-Q, March 31, 2010, p. 2, <http://www.sec.gov/Archives/edgar/data/732712/000119312510096291/d10q.htm>, accessed on May 24, 2010.
[27] Response to Local Competition Data Request for 2009 and 2010.
[28] Embarq Form 10-K, December 31, 2008, p. 23, < http://www.sec.gov/Archives/edgar/data/1350031/000119312509028860/d10k.htm>, accessed on May 24, 2010, and CENTURYTEL INC Form 10-K, December 31, 2009, p. 8, <http://www.sec.gov/Archives/edgar/data/18926/000001892610000004/form10k.htm>, accessed on May 24, 2010.
[29] CENTURYTEL INC Form 10-K, December 31, 2009, p. 31, <http://www.sec.gov/Archives/edgar/data/18926/000001892610000004/form10k.htm>, accessed on May 24, 2010.
[30] Ibid, p 12.
[31] Response to Local Competition Data Request for 2009 and 2010.
[32] Ibid.
[33] Windstream Corp., Form 10-K, December 31, 2009, p. 2, < http://www.sec.gov/Archives/edgar/data/1282266/000119312510038834/d10k.htm >, accessed on May 24, 2010.
[34] Ibid, p. F-7.
[35] Windstream Corp., Form 10-Q, March 31, 2010, p.2, < http://www.sec.gov/Archives/edgar/data/1282266/000119312510110935/d10q.htm>, accessed on May 24, 2010.

Maine, New Hampshire, and Vermont in 2007.[36] On May 5, 2009, FairPoint stated in its first quarter 2009 Report that it was, "considering engaging a financial advisor to evaluate its current capital structure and to explore options with respect to a potential restructuring." Five months later, FairPoint Communications filed for Chapter 11 bankruptcy protection.[37] FairPoint has asserted that the day-to-day operations of the company will not be affected.

Despite the decline in wireline access lines and revenues, and the growing emphasis on wireless revenues for AT&T and Verizon, wireline telecommunications remains the gold standard for service quality and reliability. Cable and wireless carriers are still working to harden their networks against natural and manmade disasters that traditional wireline networks have, in many cases, sustained more effectively. Moreover, wireless carriers continue to be heavily dependent on the ILECs' wireline network, as the majority of wireless call transport occurs over the wireline network, not over wireless facilities, a function commonly referred to as backhaul. While the sustainability of the wireline network appears to be tenuous, it remains a crucial element in the mix of communications technologies of the modern day.

1. Mergers / Acquisitions

Approval of merger and acquisition petitions for telecommunications carriers peaked nationally in 2006 with more than 90 communications companies consolidating their operations.[38] By comparison, 54 mergers and acquisitions occurred in 2009.[39] This figure represents a decline of 14 percent from the previous year. Notable transactions of interest to Florida for 2009 are described below.

a. Embarq / CenturyTel

On October 26, 2008, CenturyTel, Inc. (CenturyTel) agreed to acquire Embarq in a stock-for-stock transaction. By the end of 2008, CenturyTel operated approximately 2 million telephone access lines, primarily in rural areas and small to mid-size cities in 23 states. More than 68 percent of CenturyTel's lines are located in Missouri, Wisconsin, Alabama, Arkansas, and Washington.[40] Embarq serves approximately 5.7 million access lines nationwide, with a significant presence in Florida, North Carolina, Nevada, and Ohio.[41] By the end of 2008, Embarq had 1.5 million access lines in Florida.[42] All of the affected 33 state regulatory agencies

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[36] FairPoint Communication, Form 10-Q/A, September 30, 2009, p. 16, < http://www.sec.gov/Archives/edgar/data/1062613/000104746910004505/a2196978z10-qa.htm>, accessed on May 24, 2010.
[37] "FairPoint Reaches Agreement with Bank Lenders – Initiates Voluntary Chapter 11 Proceeding," FairPoint News Release, October 26, 2009, <http://fairpoint.com/Images/10%2026%202009%20FP%20Balance%20Sheet%20Restructuring%20NR%20-%20FINAL_tcm52-7983.pdf >, accessed on May 24, 2010.
[38] FCC, "2006 Completed Domestic Section 214 Transfer of Control Transactions," <http://www.fcc.gov/wcb/cpd/214Transfer/214completed2006.html>, accessed on March 16, 2010.
[39] FCC, "2009 Completed Domestic Section 214 Transfer of Control Transactions," <http://www.fcc.gov/wcb/cpd/214Transfer/214completed2009.html>, accessed on March 16, 2010.
[40] CenturyTel, Inc., Form 10-K, December 31, 2008, p. 4, <http://www.sec.gov/Archives/edgar/data/18926/000001892609000008/form10-k.htm>, accessed on June 12, 2009.
[41] Embarq Corporation, Form 10-K, December 31, 2008, pp. 2-3, <http://www.sec.gov/Archives/edgar/data/1350031/000119312509028860/d10k.htm>, accessed on April 20, 2009.
[42] Embarq's Redacted Response to FPSC's 2009 ILEC Local Competition Data Request.

have approved the merger.[43] The FPSC approved the joint application for the transfer of control of Embarq to CenturyTel on March 23, 2009.[44] The FCC approved the merger with conditions on June 25, 2009.[45] The merged company agreed not to increase special access rates for one year to provide CLECs with a period of stability in their interconnection agreements. The broadband commitment promises 100 percent coverage for single-line residential and business lines within 3 years.[46] Ninety percent of its broadband commitment is to be achieved using wireline technologies, while the remaining ten percent of consumers will have access to broadband services using alternative technologies including satellite and terrestrial wireless broadband technologies. The wireline broadband speed commitments include promises to reach 87 percent of lines with 1.5 Megabits per second (Mbps) service and 78 percent of lines with 3 Mbps service within 2 years.[47] The newly merged company is called CenturyLink.[48]

b. CenturyLink / Qwest

The boards of directors of both CenturyLink and Qwest Communications Company, LLC (Qwest) announced on April 22, 2010, approval of an agreement under which CenturyLink would acquire Qwest in a tax-free, stock-for-stock transaction.[49] As of December 31, 2009, CenturyLink and Qwest served local markets in 37 states with approximately 17 million access lines, 5 million broadband customers, 1.4 million video subscribers, and 850,000 wireless consumers. The transaction is subject to regulatory approvals from the Department of Justice, the FCC, and affected state public service commissions. The transaction is subject to the approval of CenturyLink and Qwest shareholders. The companies anticipate finalizing the merger in the first half of 2011.

c. Birch / Cleartel

In May 2009, Birch Communications announced a definitive agreement to acquire the customers and network assets of Cleartel Communications, both CLECs.[50] There were over

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[43] Kevin Olin, "CenturyTel and Embarq Receive All Necessary State Approvals for Merger," Embarq Press Release, May 29, 2009, <http://www.centurytelembarqmerger.com/pdf/pressreleases/WA%20and%20PA%20FINAL%205_29_09.pdf>, accessed on June 1, 2009.

[44] FPSC Order No. PSC-09-0126-PAA-TP, issued March 3, 2009 in Docket No. 080692-TP, In re: Joint application for approval of indirect transfer of control of telecommunications facilities by Embarq Corporation, CenturyTel, Inc., Embarq Florida, Inc., and Embarq Payphone Services, Inc.

[45] FCC 09-54, WC Docket No. 08-238, Applications Filed for the Transfer of Control of Embarq Corporation to CenturyTel, Inc., Memorandum Opinion and Order, June 25, 2009, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-54A1.pdf>, accessed June 25, 2009.

[46] Ibid, Appendix C.

[47] Ibid.

[48] "CenturyTel and EMBARQ Receive All Necessary State Approvals for Merger," CenturyTel Press Release, May 29, 2009, <http://ir.centurytel.com/phoenix.zhtml?c=112635&p=irol-newsArticle_Print&ID=1293827&highlight=>, accessed on June 1, 2009.

[49] "CenturyLink and Qwest Agree to Merge," CenturyLink / Qwest Joint Press Release, April 22, 2010, <http://www.centurylinkqwestmerger.com/downloads/pressreleases/CenturyLink%20Qwest%20Merger%20Press%20Release%204-22-2010.pdf>, accessed on April 22, 2010.

[50] Allan Samson, "Birch Communications Announces Acquisition of Cleartel Communications' Customer and Network Assets," Birch Communications Press Release, May 12, 2009, <http://www.birch.com/about/05122009.aspx>, accessed on June 3, 2009.

50,000 business and residential Florida access lines included in the acquisition.[51] Cleartel subsidiaries include Supra Telecommunications and Information Systems, predominately located in South Florida. The FCC approved the acquisition on July 2, 2009.[52]

d. Windstream / NuVox

On November 3, 2009, Windstream Corporation announced that it had entered into an agreement to acquire NuVox, Inc., a privately held competitive local exchange carrier.[53] Windstream, an ILEC in northeast Florida, provides local service in 15 other states, primarily in rural areas.[54] Nationwide, Windstream provides local and long distance telephone services to approximately 3 million residential and business access lines.[55] NuVox offers service primarily to business customers in small and medium-sized markets throughout 16 contiguous Midwestern and Southeastern states, including Florida. NuVox is the largest competitive local exchange carrier in Florida. The acquisition by Windstream will give the company access to consumers in several cities outside of its incumbent service area.[56]

C. Wireless

Wireless technology has transitioned from being a tool to transmit voice communication to a broadband service capable of delivering voice, video, and data. The recent growth in the wireless sector is attributable primarily to the sale and use of smartphones and the increasing popularity of prepaid subscriptions. Applications and software for use with smartphones continue to evolve. Wireless technology has made it possible to manage entire businesses through one handheld wireless device.

To compensate for the growing use of data transfer through wireless channels, carriers are working to increase the speed and capacity of their networks. Third Generation (3G) and Fourth Generation (4G) networks are industry standards now considered necessary to compete in the wireless data arena and network operators are progressing with network upgrades to meet growing demand.

Nationally, subscriptions to wireless services more than doubled in the last 8 years, rising from 40 percent of the population having a wireless handset in service as of June 2001 to 85

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[51] Responses to the FPSC 2009 Local Competition data request by subsidiaries of Cleartel Communications.
[52] FCC Public Notice, Notice of Domestic Section 214 Authorization Granted, WC Docket No. 09-67, DA 09-1501, released July 2, 2009, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-1501A1.doc>, accessed on March 19, 2010.
[53] "Windstream to acquire NuVox," Windstream News Release, November 3, 2009, <http://www.technologycouncil.com/wp-content/uploads//2009/11/NuVox-Release.pdf>, accessed on March 18, 2010.
[54] FCC, Public Notice, WC Docket No. 09-211, DA 09-2523, released December 2, 2009, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-2523A1.pdf>, accessed on March 18, 2010. Those states are Alabama, Arkansas, Georgia, Kentucky, Mississippi, Missouri, Nebraska, North Carolina, New York, New Mexico, Ohio, Oklahoma, Pennsylvania, South Carolina, and Texas.
[55] Ibid.
[56] Windstream ILEC / CLEC Map, <http://www.windstream.com/images/maps/coverage_maplarge.jpg>, accessed on March 18, 2010. Those cities include Destin, Fort Myers, Ft. Lauderdale, Jacksonville, Maitland, Miami, Orlando, Sarasota, Tampa, West Palm Beach, and Winter Haven.

percent as of December 2008.[57] With near market saturation for wireless subscription service, carriers have a shrinking pool of new wireless customers from which to pull. Because of these limitations, carriers are striving to provide the latest technology available to lure existing wireless customers from competing carriers. The technology-derived capabilities of wireless handsets have spurred increased usage of text and data services. CTIA, the international wireless carrier association, reported that in the last half of 2009, consumers used more than 1.1 trillion voice minutes and sent almost 5 billion text messages. Wireless service providers garnered $41.5 billion in revenue from data services in 2009, a 29.6 percent increase from 2008 data revenues.[58] The industry, however, experienced a decline in the rate of growth for data revenues of approximately 25 percent from the prior year.

Overall revenue growth within the wireless market has also slowed in the past year, growing only 2.9 percent.[59] Usage of wireless data services is increasing faster than the revenue stream from those services. Industry analysts predict that overall revenue growth in 2010 will decrease to approximately 2.7 percent.[60] Because wireless revenues are not keeping pace with the consumption of wireless data services, some analysts expect that carriers will soon release new pricing plans for data usage, including tiered pricing plans.[61] Verizon Wireless, for example, currently offers a tiered data plan. Its basic multimedia plan includes 25 Megabytes of data for $9.99 per month, while its premium data plan offers unlimited data for $29.99 per month.[62] Changes in pricing of data services may enable wireless carriers to slow or stop the current decline in revenue growth. AT&T now offers similar options with their DataPlus and DataPro plans. [63]

In addition to recovering revenue, tiered data plans address the depleting amount of spectrum that is available for commercial use. The Obama administration is proposing to transfer 500 megahertz of spectrum from federal and private use to primarily commercial use over the next 10 years. That is nearly double the amount that is currently available. The proposal coincides with the FCC's National Broadband Plan (NBP or Plan). Portions of the plan

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[57] FCC, "Local Telephone Competition: Status as of December 31, 2008,"June 2010, Table 17, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-299052A1.pdf>, accessed on July 8, 2010.

[58] "CTIA – The Wireless Association® Announces Semi-Annual Wireless Industry Survey Results April 1, 2009," CTIA Press Release, April 1, 2009, <http://www.ctia.org/media/press/body.cfm/prid/1811>, accessed on March 14, 2010; "Wireless Quick Facts Year-End Figures," CTIA, April 13, 2010, <http://www.ctia.org/advocacy/research/index.cfm/AID/10323>, accessed on May 21, 2010>, accessed on May 21, 2010.

[59] "CTIA Semi-Annual Wireless Industry Survey," CTIA Press Release, March 23, 2010, http://www.ctia.org/media/press/body.cfm/prid/1936, accessed on May 21, 2010.

[60] Craig Moffet, "Wireless 2010: Like Déjà vu, All Over Again . . . Industry Growth Now Below 3%, and Estimates (Again) Look Too High," *Bernstein Research*, February 26, 2010, p. 1 <http://reports.bernsteinresearch.com/researchlinks/view.aspx?eid=xzB2wBUF31cKyEnY7cnXBoNUPcAFcejNfPrtWnFC6hUPBkdjbKQ7Gi2gmPiBF9rs>, accessed on March 12, 2010.

[61] Wailin Wong, "Mobile phone usage keeps growing," *LA Times*, March 25, 2010, <latimes.com/business/la-fi-texts25-2010mar25,0,7410035.stor>, accessed on March 26, 2010.

[62] Verizon Wireless, FamilyShare Plans, <http://www.verizonwireless.com/b2c/splash/planfamily.jsp.>, accessed on May 27, 2010.

[63] "AT&T Announces New Lower-Priced Wireless Data Plans to Make Mobile Internet More Affordable to More People**,"** AT&T Press Release, June 2, 2010, <http://www.att.com/gen/press-room?pid=17991&cdvn=news&newsarticleid=30854&mapcode=financial|Wireless>, accessed on June 14, 2010.

will require congressional approval, but if successful, will improve data and video transfers via a wireless connection.[64]

Prepaid wireless service continues to attract consumers looking for value. Growth in the prepaid market is expected to continue in 2010 at a rate of 18.2 percent. In contrast, post-paid subscriber growth in 2010 is estimated to reach only 1.2 percent.[65] Prepaid wireless providers are expected to continue exerting pricing pressure on larger post-paid competitors.

D. VoIP

Voice over Internet Protocol (VoIP) services provided by cable companies, traditional ILECs via fiber-to-the-home (FTTH) and fiber-to-the-node technologies, and providers of over-the-top services[66] comprise the market for Internet Protocol (IP) or IP-based voice services. AT&T and Verizon have upgraded their distribution infrastructure to fiber in order to provide interactive digital services, including voice, but the cable companies continue to have an edge in this segment of the communications market.

Nearly 65 percent of all Americans subscribe to some sort of broadband service and nearly 85 percent subscribe to cable television service. The proliferation of bundled service offerings has complicated the decision on what type of voice service best meets consumers' needs. Factors such as mobility, broadband download speed, video clarity and choice, and ultimately price, are more influential than before. At least in part, upgraded video products, faster download speeds, and competitive bundled pricing arrangements have made cable providers the dominant VoIP providers. As a result, consumers who view wireline, wireless, and VoIP service as relative substitutes are likely to make the selection of preferred service provider on the basis of something other than the characteristics of voice service. The fact that Comcast became the third largest residential voice provider in late 2008 underscores the importance of offering consumers a competitively priced bundled service package.

Verizon and AT&T now offer digital service packages comparable to cable offerings via their FiOS and U-verse fiber-based services. These service offerings are not available in all areas of their respective service territories, and each company has indicated that its capital expenditures for fiber network upgrades are winding down. Cable providers managed to add approximately 2.6 million voice customers nationwide in 2009, despite increased competition

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[64] Edward Wyatt, "Broadband Availability to Expand," *The New York Times*, June, 27, 2010, < http://www.nytimes.com/2010/06/28/technology/28broadband.html>, accessed on July 2, 2010.

[65] Craig Moffet, "Wireless 2010: Like Déjà vu, All Over Again . . . Industry Growth Now Below 3%, and Estimates (Again) Look Too High," *Bernstein Research*, February 26, 2010, p. 8, <http://reports.bernsteinresearch.com/researchlinks/view.aspx?eid=xzB2wBUF31cKyEnY7cnXBoNUPcAFcejNfPrtWnFC6hUPBkdjbKQ7Gi2gmPiBF9rs>, accessed on March 12, 2010.

[66] The term over-the-top in this report refers to voice providers that rely on the public Internet for transport of the service.

from AT&T's and Verizon's digital services.[67] AT&T added approximately 764,000 U-verse Voice customers, and Verizon added 952,000 FiOS customers in 2009.[68, 69]

Over-the-top providers are much harder to gauge. Vonage, among the most well known providers of this type, reported nationwide subscriber losses for the second straight year in 2009. Skype and Google, the other most popular providers in this category, report significant subscribership worldwide, but neither company reports subscribership data in a way that makes reasonable comparisons possible. Furthermore, much of the traffic carried by Skype and Google is considered peer-to-peer traffic and never reaches the public switched telecommunications network.[70] Some analysts believe that over-the-top services are more likely to be complementary to other types of voice services rather than a substitute for them.

E. Broadband

The FCC released its National Broadband Plan outlining recommendations for updating U.S. broadband infrastructure and increasing the number of Americans with high-speed Internet access. The Plan establishes national goals for the deployment of broadband as well as identifying critical steps necessary to achieve the stated goals. A primary goal enumerated in the Plan is to provide broadband access to at least 100 million U.S. homes with actual download speeds of at least 100 Mbps and actual upload speeds of at least 50 Mbps by 2020. The FCC and the Department of Energy have already initiated proceedings to begin implementing aspects of the Plan. Broadband usage and technologies continue to evolve as government policies develop.

Wireless broadband services continue to represent a significant and growing portion of the data market. The wireless industry executives and analysts reported that in 2009 the amount of data in text, e-mail messages, streaming video, music, and other services on mobile devices surpassed the amount of voice traffic carried on wireless phones. Research over the past 2 years has shown that the number of voice minutes per wireless user has fallen, whereas the number of text messages per user increased by nearly 50 percent.[71]

The largest provider of FTTH technology, Verizon, has announced that it is winding down its FiOS deployment, which will reach 18 million households by the end of 2010. Small, independent telecommunications companies, broadband service providers, cable companies, and municipalities have deployed FTTH service to more than 1.4 million homes across North

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[67] National Cable & Telecommunications Association, "Industry Data: Cable Phone Subscribers 1998-2009 (as of December 2009)," <http://www.ncta.com/StatsGroup/OperatingMetric.aspx>, accessed on May 21, 2010.
[68] AT&T, "Fourth Quarter Wireline Operational Highlights," January 28, 2010, <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30429>, accessed on February 1, 2010.
[69] Verizon, "Q4 Investor Quarterly," January 26, 2010, p. 18, <http://investor.verizon.com/financial/quarterly/vz/4Q2009/4Q09Bulletin.pdf>, accessed on May 24, 2010.
[70] Peer-to-peer traffic requires that both the called party and the calling party be online in order to converse.
[71] Jenna Wortham, "Cellphones Now Used More for Data Than for Calls," *New York Times*, May 13, 2010, <http://www.nytimes.com/2010/05/14/technology/personaltech/14talk.html>, accessed May 25, 2010.

America.[72] Over 750 mostly small, independent companies in North America are replacing their copper lines with FTTH.[73]

Although fiber provides the arguably fastest broadband medium, its high cost and relatively limited availability has allowed cable providers to gain an edge over the major telecommunications companies. Most traditional telecommunications providers, including AT&T and Verizon, are still reliant on digital subscriber line (DSL) service to serve the bulk of their broadband subscribers and the companies' DSL numbers have been decreasing as their fiber-based products become available. Verizon lost 405,000 DSL customers in 2009, and AT&T's DSL customer base shrank by 407,000 the same year. The 2 largest cable companies, Comcast and Time Warner Cable, now have 62 percent of the broadband subscribers served by the 4 largest broadband providers, Comcast, Time Warner Cable, AT&T, and Verizon.[74]

F. Regulatory Factors

Changes to state and federal regulatory policy, as well as to state and federal law, continue to influence telecommunications markets. Immediate measurable effects on the Florida telecommunications market may not result from such changes, but significant impacts may eventually appear.

1. Federal

In the first half of 2009, the FCC focused its efforts primarily on the digital television transition. While the original transition date was February 17, 2009, Congress pushed it back to June 12, 2009. During the transition, the FCC did not address a number of long outstanding controversial reform measures, such as intercarrier compensation (ICC) and universal service. This delay may have been exacerbated by the fact that two of the five Commissioners vacated the Commission before the end of January. A third Commissioner left to head the Rural Utilities Service in June. The FCC focused on non-controversial issues until the vacancies were filled later in 2009.

The FCC shifted its focus for the second half of the year to address a Congressional mandate to develop a national broadband plan. To develop the Plan, the FCC held 36 public workshops and 9 public hearings. Issues raised during the workshops and hearings were further refined and addressed through 31 public notices. The recommendations within the Plan are not self-effectuating; the proposals within the purview of the FCC (as opposed to Congress, executive branch agencies, and state and local governments) will likely proceed through the standard rulemaking process where the FPSC and other interested parties can comment on specific issues. The FCC has released a schedule of 63 proceedings that it intends to initiate

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[72] David St. John, "Survey: Hundreds of Local Telecoms Already Upgrading to Gigabit-Enabled Fiber Networks," FTTH Council Press Release, April 3, 2010, <http://www.ftthcouncil.org/en/newsroom/2010/04/14/survey-hundreds-of-local-telecoms-already-upgrading-to-gigabit-enabled-fiber-net>, accessed on June 10, 2010.
[73] Ibid.
[74] Craig Moffett, "Weekend Media Blast: The Process of Elimination," *Bernstein Research*, April 30, 2010, <http://reports.bernsteinresearch.com/researchlinks/View.aspx?eid=hvGc2w94rvWA8mSTcwVwTIKIYrYA%2bqkR4pJNYsGWjsHgIJ9c32pKLVDhbM%2fCmls6>, accessed May 25, 2010.

before the end of 2010 relating to recommendations within the Plan. The Department of Energy has initiated a broadband-related proceeding on smart grid in furtherance of the goals of the plan.[75]

2. State

Two significant statutory changes became effective in 2009 that impacted FPSC rules governing local exchange telecommunications carriers in Florida. First, as of January 1, 2009, the carrier-of-last-resort obligation ended. The obligation had been imposed on all ILECs and required them to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's service territory. Rules relating to this obligation were modified or repealed accordingly.

Second, effective July 1, 2009, revisions to Chapter 364, F.S., redefined basic local telecommunications service. The Commission updated its service quality rules in accordance with the new definition of basic local telecommunications service in October 2009.[76]

[75] Federal Register, Department of Energy, Request for Information, "Implementing the National Broadband Plan by Empowering Consumers and the Smart Grid: Data Access, Third Party Use, and Privacy," Volume 75, No. 90, May 11, 2010, pp. 26203-26206.

[76] FPSC Order No. PSC-09-0659-FOF-TP and Order No. PSC-09-0660-FOF-TP, Docket No. 080641-TP, In re: Initiation of rulemaking to amend and repeal rules in Chapters 25-4 and 25-9, Florida Administrative Code (F.A.C.), pertaining to telecommunications.

Chapter III. Status of Wireline Competition In Florida

A. Wireline Access Lines In Florida

1. 2009 Summary of Results

Since 2001, total traditional wireline access lines, ILEC and CLEC combined, have declined 38 percent, from approximately 12 million in 2001 to 7.5 million as of December 2009.[77] The decline began in 2001, and has occurred each year except for a slight gain in 2004. From 2001 through December 2009, combined wireline residential access lines have declined by 51 percent, or 4.3 million lines, to a combined CLEC and ILEC total of 4.1 million.[78] A decline of more than 651,000 residential lines occurred in 2009.

From May 2001 to December 2009, combined ILEC and CLEC business access lines have decreased by 399,000 lines to a total of 3.3 million lines, a decrease of 11 percent. Between June 2001 and June 2006, business access lines increased slightly each year. Business access lines began to decline and decreased by more than 265,000 lines, or 7 percent, between December 2008 and December 2009. AT&T, Verizon, and CenturyLink all experienced business access line losses in 2009. During the same time period, CLECs lost more than 63,000 business lines, representing a decrease of 7 percent.

The composition of ILEC and CLEC access lines served has also undergone a noticeable shift since 2001. As of December 2009, total ILEC business lines were 39 percent of total ILEC lines served, compared to 28 percent in 2001. CLEC business access lines were 83 percent of total CLEC access lines served, compared to 64 percent in 2001.

2. Factors Contributing to Access Line Decline

The primary reason for the decline in residential access lines is the increase of wireless-only households and VoIP services in lieu of traditional wirelines. The current recession has also contributed to the decline. In addition, other factors such as the prevalence of bundled pricing packages and the influence of services such as broadband, video, and mobility on the selection of a voice service provider are contributing to the decline in residential wireline access lines.

As addressed more thoroughly in Chapter IV, both VoIP and wireless service are popular choices across the nation and in Florida. The FPSC estimates 1.8 million residential VoIP subscribers reside in Florida as of December 2009. The FCC reports that approximately 16.2 million wireless handsets are in use in Florida as of December 2008.[79] Wireless and VoIP service are increasingly popular among business customers as well and are, in part, responsible for the business line decline.

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[77] VoIP connections reported by CLECs are not included in wireline CLEC market share analyses.
[78] Market share calculations for 2007 were adjusted to correct a misclassification of lines. The impact on the business market share was immaterial.
[79] FCC, "Local Telephone Competition: Status as of December 31, 2008,"June 2010, Table 17, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-299052A1.pdf>, accessed on July 8, 2010.

3. CLEC Market Composition

Table 3-1 shows a distribution for 2008 and 2009 of the number of CLECs by ranges of residential access lines served. Three CLECs serve more than 20,000 residential access lines, representing approximately 58 percent of the CLEC residential market for 2009. Only 1 CLEC serves between 10,000 and 20,000 residential access lines. The 4 largest residential providers constitute 68 percent of the CLEC residential market. The remaining CLECs represent 32 percent of the residential CLEC market. There are 53 CLECs that serve fewer than 1,000 residential access lines each.

Despite the increase in residential access lines served by CLECs, the number of CLECs reporting access line data decreased from 74 in 2008 to 71 in 2009. The distribution of residential access lines provided by CLECs has become more top heavy, with 68 percent of lines served by 4 providers in 2009 compared to 61 percent served by the top four in 2008.

Table 3-1. Summary of CLEC Residential Access Line Providers

Number of Lines	2008		2009	
	Number of Providers	% of Total CLEC Res Lines	Number of Providers	% of Total CLEC Res Lines
20,000 +	2	47%	3	58%
10,000 - 20,000	1	8%	1	10%
1,000 - 10,000	18	32%	14	25%
Less than 1,000	53	13%	53	7%

Source: Responses to FPSC data requests (2009-2010)

B. Wireline Market Share and Access Lines

Charts and graphs in this section of the report show a gap in 2007 data due to a statutory change in the timeline of this report. Data collected for this year's edition of the report are as of December 31, 2009.[80]

Graphic figures and tables are arranged to provide market share (expressed as a percentage) and actual line counts (presented as raw numbers). Market share data are presented first, followed by actual line counts.

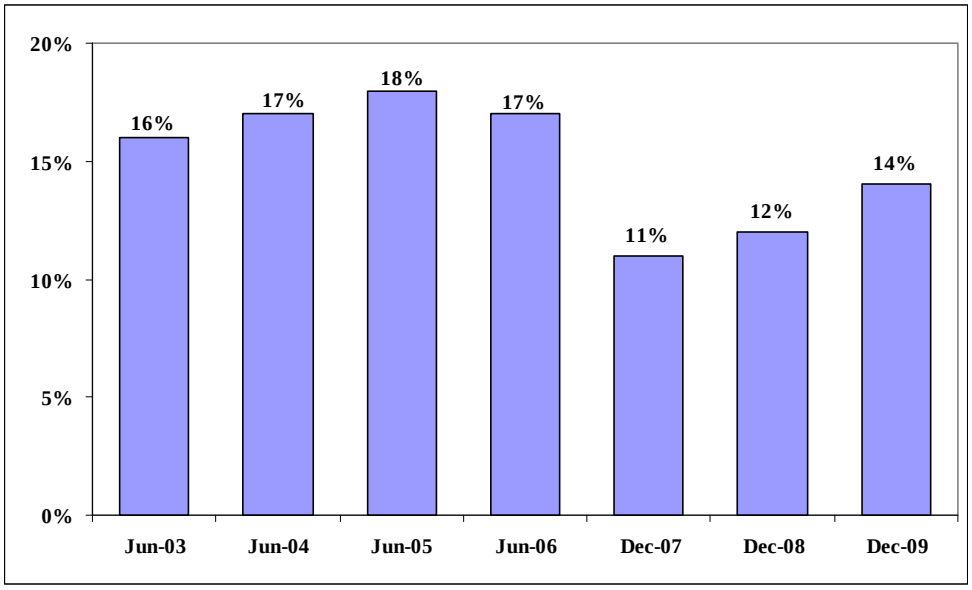
[80] The methodology for counting ILEC-affiliated CLEC access lines in the affiliated ILEC's territory changed starting with the 2008 report. The access lines of a CLEC related to AT&T, Verizon, or CenturyLink are accounted for as competitive lines only when those access lines are outside of the parent company's footprint.

1. CLEC Market Share

a. Florida

Calculations based on responses to the Commission's data request indicated the overall CLEC market share was 14 percent as of December 2009. Figure 3-1 provides the CLEC market share percentages for total access lines (combined residential and business lines) from 2003 through 2009.

Figure 3-1. Florida CLEC Market Share



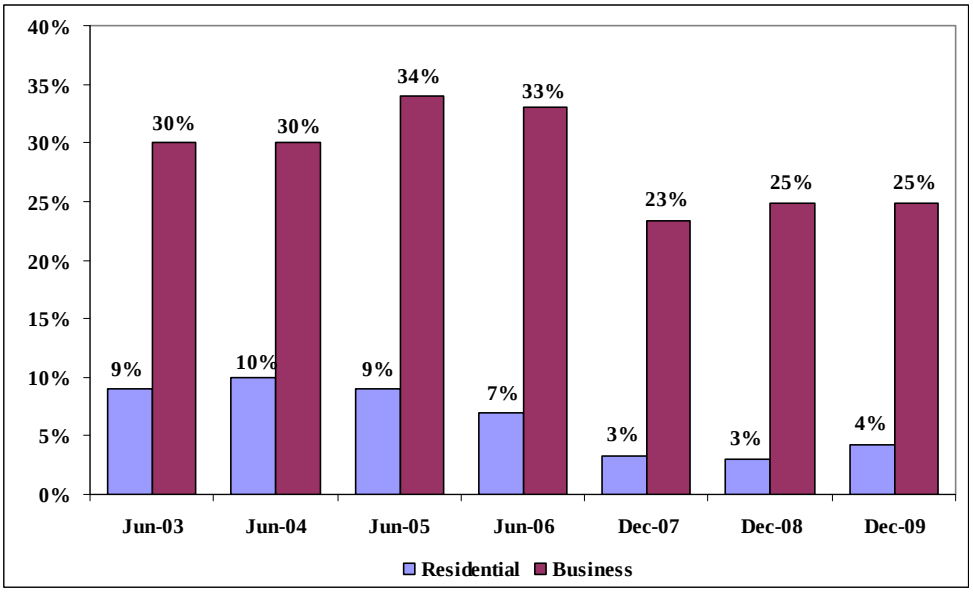
Source: Responses to FPSC data requests (2003-2010)

Figure 3-2 shows the CLEC residential and business market shares for the same period.

- CLEC residential market share increased to 4 percent, up from 3 percent in 2008.
- CLEC business market share remained steady at 25 percent.

The market share percentages mask the fact that both ILEC and CLEC business access lines declined over the reporting period. CLECs showed an increase in residential access lines in 2009 and continue to increase their share of a smaller residential wireline market from 2008 levels.

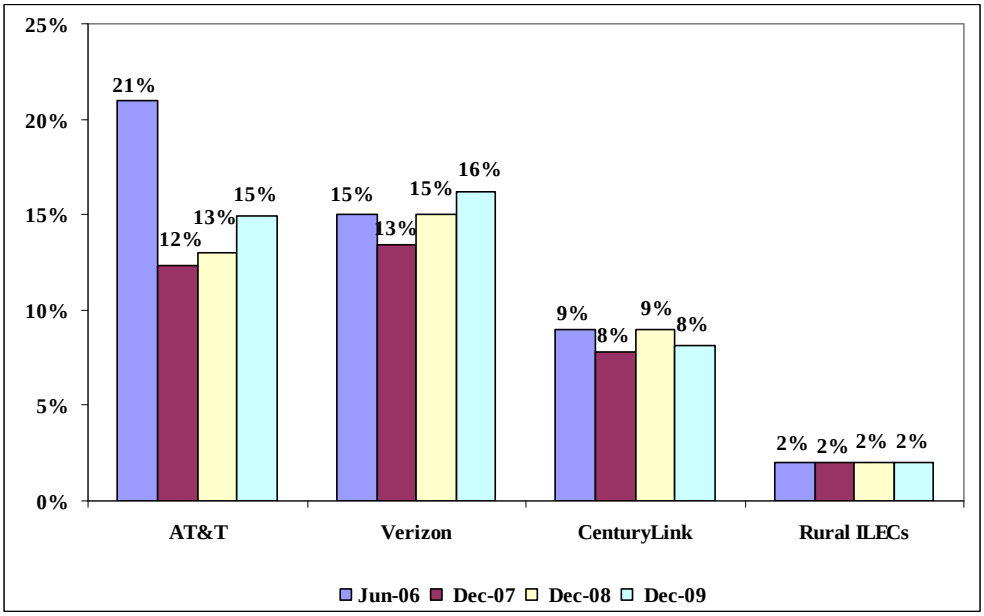
Figure 3-2. Florida Residential & Business CLEC Market Share



Source: Responses to FPSC data requests (2003-2010)

Figure 3-3 displays the CLEC market share of combined residential and business lines within the service territories of AT&T, Verizon, CenturyLink, and the combined rural ILECs for 2006 through 2009. CLEC market share increased in AT&T's and Verizon's territories but decreased slightly in CenturyLink's territory. CLEC market share remained relatively unchanged from last year in rural ILEC territories.

Figure 3-3. Florida CLEC Market Share by ILEC Service Territory



Source: Responses to FPSC data requests (2006-2010)

b. National

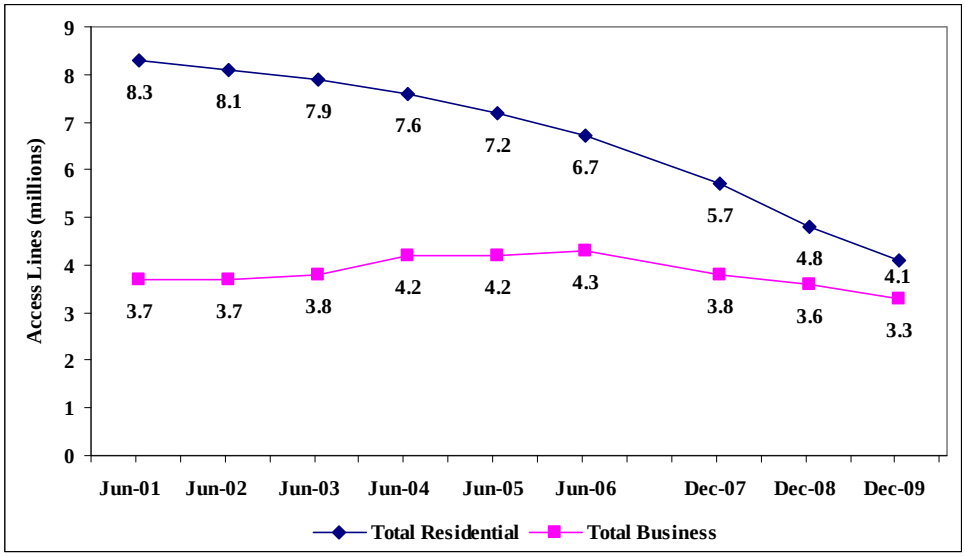
According to the FCC's most recent report on local competition, the nationwide CLEC market share was 27 percent as of December 31, 2008. The FCC reports Florida's CLEC market share at 27 percent as of December 2008.[81] The December 2008 FCC Local Competition Report is the first report that includes VoIP subscriber lines in the market share calculations. This accounts for the majority of the difference in market share totals calculated by the Commission.

[81] FCC, "Local Telephone Competition: Status as of December 31, 2008,"June 2010, Table 11, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-299052A1.pdf>, accessed on July 8, 2010.

2. Access Line Overview

Local exchange companies were serving approximately 7.5 million lines in Florida as of December 31, 2009, a decline of 4.6 million lines from June 30, 2001. As Figure 3-4 illustrates, the number of residential lines has declined every year since 2001. The number of business lines continues to decline, after a slight increasing trend from 2001 through 2006.

Figure 3-4. Florida Access Line Trends



Source: Responses to FPSC data requests (2001-2010)

Table 3-2 displays the residential and business access line counts for ILECs and CLECs from 2007 to 2009. Between December 2008 and December 2009:

- Total access lines in Florida decreased by 11 percent.
- Total ILEC access lines decreased by 12 percent, reflecting a 15 percent decrease in residential lines and a 7 percent decrease in business lines.
- Total CLEC access lines decreased by 2 percent.
- ILEC business access lines accounted for 39 percent of total ILEC lines in December 2009, compared to 28 percent in June 2001.
- CLEC business access lines accounted for 83 percent of total CLEC lines in December 2009, compared to 64 percent in June 2001.

Over the past 3 years:

- Total access lines in Florida decreased by 21 percent.
- Total ILEC access lines decreased by 23 percent.
- Total CLEC access lines decreased by 6 percent.

Table 3-2. Florida Access Line Comparison

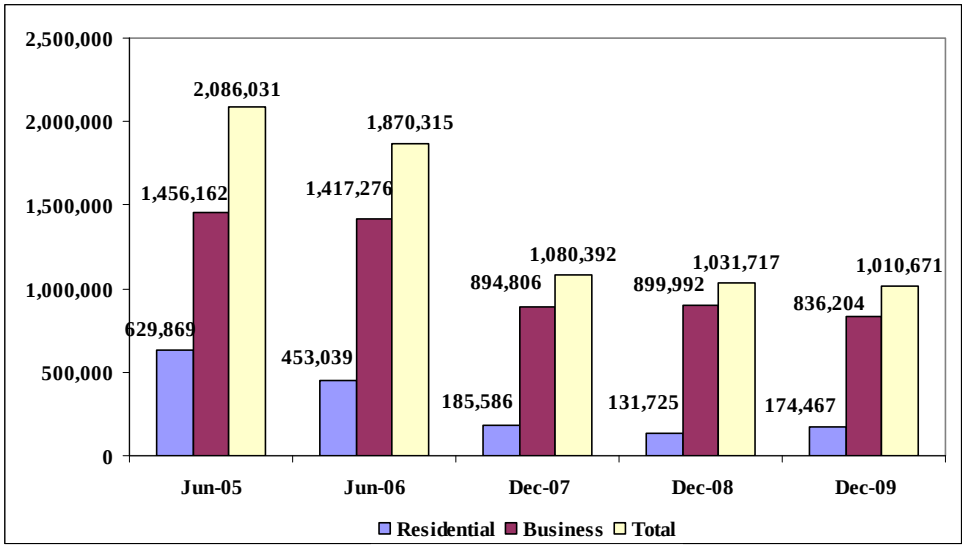
	Dec-07			Dec-08			Dec-09			Change from 2007
	Res	Bus	Total	Res	Bus	Total	Res	Bus	Total	
ILECs	5,428,994	2,928,128	8,357,122	4,654,512	2,702,144	7,356,656	3,960,176	2,500,229	6,460,405	-23%
CLECs	185,586	894,806	1,080,392	131,725	899,992	1,031,717	174,467	836,204	1,010,671	-6%
Total	5,614,580	3,822,935	9,437,514	4,786,237	3,602,136	8,388,373	4,134,643	3,336,433	7,471,076	-21%

Source: Responses to FPSC data requests (2008-2010)

Figure 3-5 graphically displays CLEC residential and business access line counts from 2005 to 2009.

- CLEC residential access lines increased by over 42,000 from December 2008 to December 2009, a 32 percent increase.
- CLEC business access lines declined by more than 63,000 from December 2008 to December 2009, a 7 percent loss.
- CLEC business access lines as a percentage of the total decreased to 83 percent, a 4 percent decline from 2008.

Figure 3-5. Florida CLEC Lines

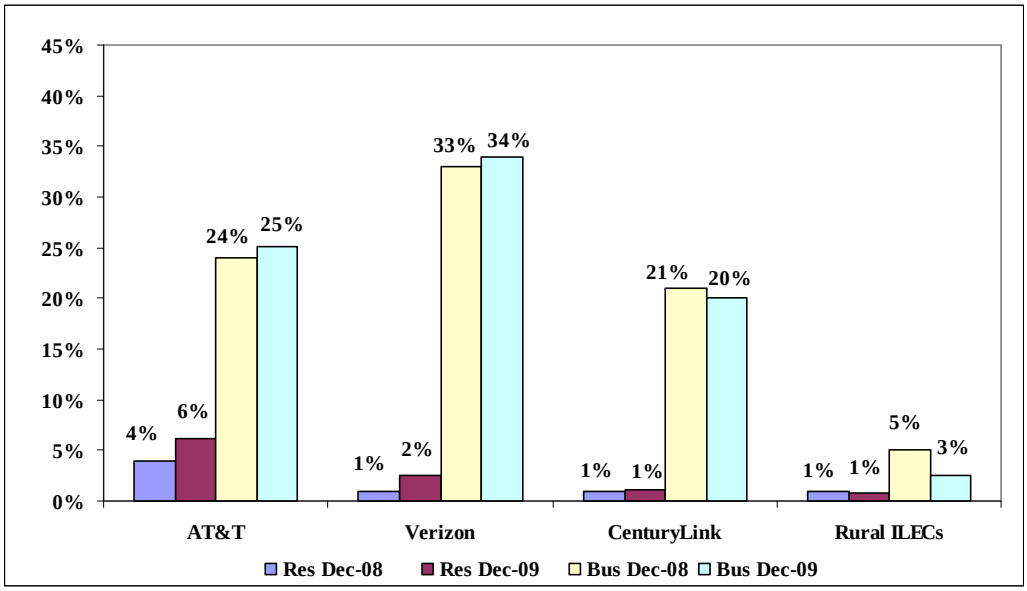


Source: Responses to FPSC data requests (2005-2010)

3. CLEC Market Penetration by ILEC Territory

Figure 3-6 displays the CLEC residential and business wireline market share by ILEC territory for 2008 and 2009. CLEC residential market share increased in AT&T's and Verizon's territories and remained relatively static in the territories of CenturyLink and the rural ILECs. CLEC business market share increased in AT&T's and Verizon's territories but decreased in CenturyLink's territory and the territories of the rural ILECs. CLECs have their highest penetration rates in the business market, with a 34 percent share in Verizon's territory, a 25 percent share in AT&T's territory, and a 20 percent share in CenturyLink's territory. A more thorough analysis of factors influencing where CLECs choose to offer services is contained in Chapter V, subsection B., 2., pg 65.

Figure 3-6. Florida CLEC Residential & Business Market Share by ILEC Service Territory



Source: Responses to FPSC data requests (2009-2010)

4. Competitive Presence by Exchange

Table 3-3 lists five Florida exchanges in AT&T's territory with the greatest number of CLEC providers. Verizon's Tampa exchange and CenturyLink's Tallahassee exchange are listed for comparison. The number of CLEC residential providers decreased from 2008 levels in all seven exchanges, while the number of CLEC business providers remained relatively stable from 2008 to 2009 in all exchanges. The number of overall providers decreased in six of the seven exchanges.

Table 3-3. Florida Exchanges with the Most CLEC Providers

Exchange	Rank by Total Access Lines	Residential		Business		Total CLECs	
		Dec-08	Dec-09	Dec-08	Dec-09	Dec-08	Dec-09
Miami	1	49	44	50	51	78	77
Orlando	6	47	37	51	47	77	68
Fort Lauderdale	4	47	38	47	49	72	72
West Palm Beach	5	47	42	44	45	69	68
Jacksonville	3	42	38	42	43	64	63
Tampa (Verizon)	2	22	18	34	35	48	46
Tallahassee (CenturyLink)	10	23	14	23	23	41	34

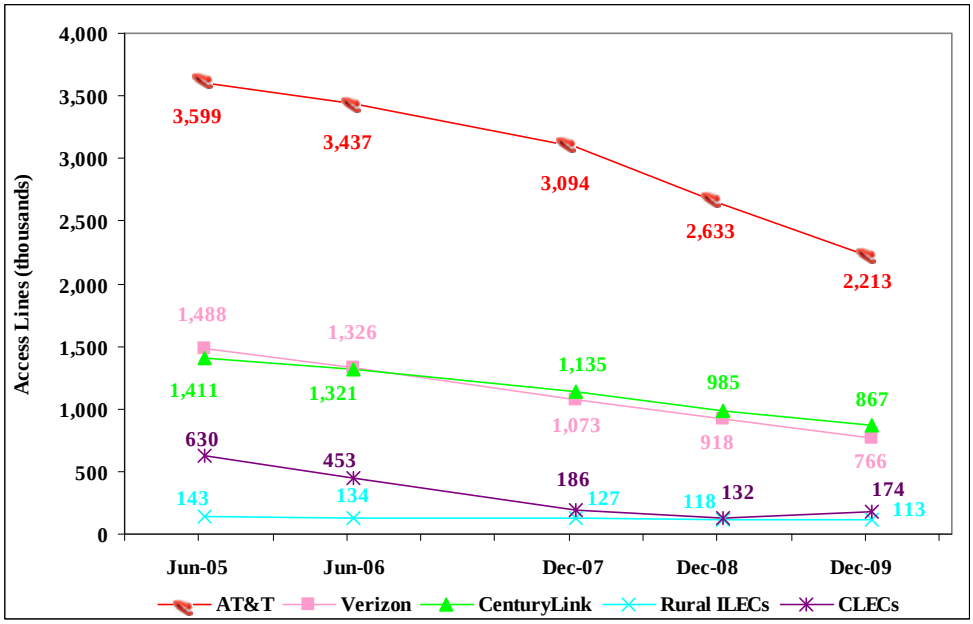
Source: Responses to FPSC data requests (2009-2010)

C. Competitive Market Trends

1. Residential Access Line Trends

Figure 3-8 displays the residential access line trends separately for AT&T, Verizon, CenturyLink, the rural ILECs, and the CLECs. AT&T, Verizon, CenturyLink, and the aggregated rural ILECs reported a decline in residential access lines. CLECs in the aggregate reported an increase in total residential access lines in December 2009 after years of decline. CLEC residential access lines grew by over 42,000 lines between December 2008 and December 2009.

Figure 3-8. Florida Residential Line Trends by ILECs and CLECs



Source: Responses to FPSC data requests (2005-2010)

Analysis of exchange level residential access line data reveals:

- CLECs gained residential access lines in 103 of 276 exchanges in 2009.
  - Gains exceeded 100 access lines in 43 exchanges.
- CLECs lost residential access lines in 122 out of 276 exchanges.
  - Losses exceeded 100 access lines in 13 exchanges and 1,000 access lines in 3 exchanges.

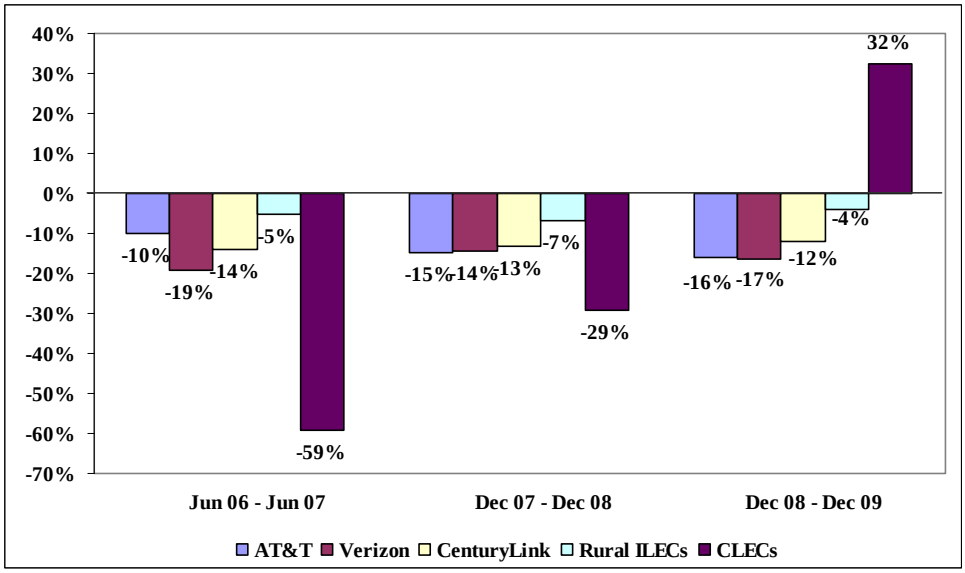
- ILECs lost residential access lines in all but 5 exchanges statewide.

    - Losses exceeded 1,000 access lines in 53 AT&T exchanges, 33 CenturyLink exchanges, and 18 Verizon exchanges.

    - Losses exceeded 10,000 access lines in 9 AT&T exchanges, 1 CenturyLink exchange, and 3 Verizon exchanges.

Figure 3-9 presents the percentage changes of residential lines for the ILECs and CLECs. ILEC residential access lines declined for AT&T, Verizon, CenturyLink, and the rural ILECs at approximately the same rate in 2009 as in 2008. CLECs experienced a 32 percent increase from December 2008 to December 2009, compared with a 29 percent drop from December 2007 to December 2008.

Figure 3-9. Percent Change of Florida Residential Access Lines by ILECs and CLECs

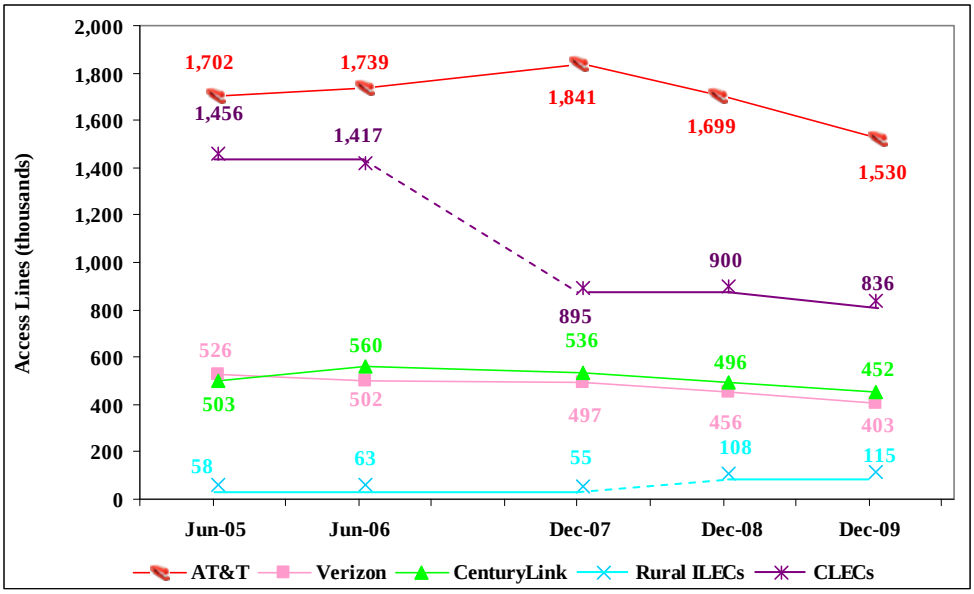


Source: Responses to FPSC data requests (2006-2010)

2. Business Access Line Trends

Figure 3-10 displays the business line trends for AT&T, Verizon, CenturyLink, the rural ILECs, and CLECs. AT&T, Verizon, and CenturyLink experienced a decrease in business access lines between 2008 and 2009 while the rural ILECs showed a slight increase from 2008 to 2009. Losses for AT&T, Verizon, and CenturyLink were 9.9, 11.6, and 8.9 percent, respectively. CLEC business access lines again declined after showing an increase in 2008. The percentage change went from a 1 percent increase in 2008 to a 7 percent decline in 2009.[82]

Figure 3-10. Florida Business Line Trends by ILECs and CLECs

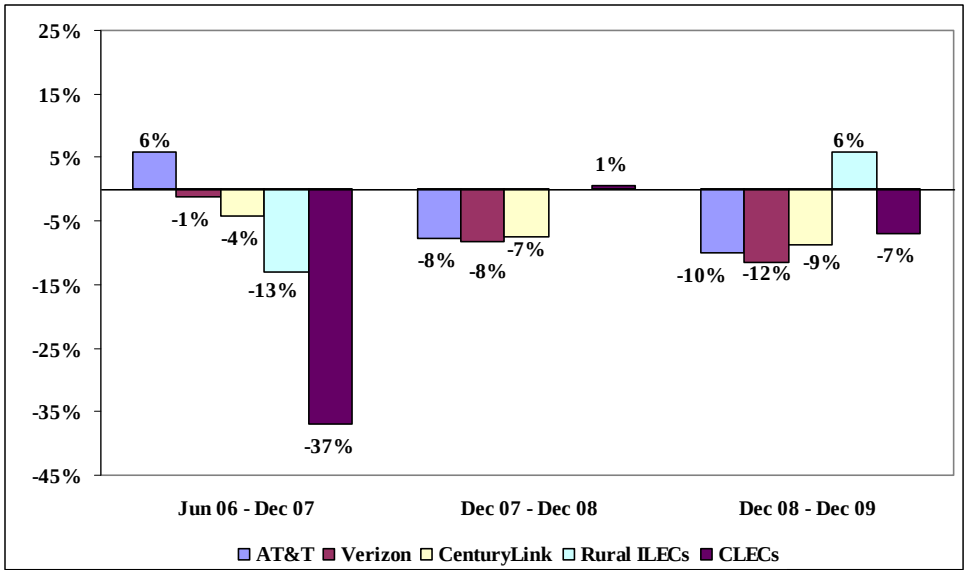


Source: Responses to FPSC data requests (2005-2010)

[82] Reclassification of ILEC-affiliated CLEC lines as ILEC lines accounts for 12 percent of the loss of CLEC business lines between June 2006 and December 2007.

Figure 3-11 displays the annual percentage changes for business lines for ILECs and CLECs.

Figure 3-11. Percent Change of Florida Business Access Lines by ILECs and CLECs[83]



Source: Responses to FPSC data requests (2006-2010)

D. Rural Access Line Trends

Total rural ILEC access lines increased by approximately 1,400 from December 2008 to December 2009, a 1 percent increase. Rural ILECs experienced access line growth for business access lines despite a decline in residential access lines.

1. Residential Access Lines

Rural residential access lines declined by almost 5,000 lines from December 2008 to December 2009, a 4 percent decline. Each rural ILEC experienced some residential access line decline. Frontier and Smart City reported the greatest percentages of residential access line loss.

2. Business Access Lines

Rural business access lines increased by more than 6,000 lines from December 2008 to December 2009, a 6 percent increase. FairPoint and Windstream, the two largest rural ILECs, reported gains in business access lines, while all other rural ILECs reported losses in business access lines.

[83] The percentage change of business lines from December 2007 to December 2008 for the rural ILECs is not applicable as there was a change in the manner in which data was reported for one company.

E. Prepaid Telecommunications Services

A segment of the market is served by CLECs that provide only prepaid services. CLECs that provide only prepaid residential wireline telephone service account for 16 of the 67 CLECs with fewer than 10,000 access lines, or 24 percent. Prepaid-only carriers serve 28 percent of the access lines of those carriers below 10,000 lines and 9 percent of total residential CLEC access lines.

F. Pay Telephone Services

Based on the most recent data available to the FPSC, the pay telephone industry in Florida has undergone significant contraction in the availability of pay telephone service during the past several years. Current industry estimates provided by the Florida Public Telecommunications Association indicate that the number of Florida pay telephones has dropped approximately 18 percent, from 20,000 in December 2008 to 16,500 in the past year. The number of certificated pay telephone service providers in Florida has dropped 20 percent, from 183 as of December 2008 to 146 in December 2009. These trends are an inevitable result of the significant growth in wireless services during this period.

In a recent proceeding before the FCC relating to Lifeline, a variety of organizations including the Salvation Army, Habitat for Humanity, Hubbard House, and the American Public Communications Council (APCC) expressed support for continued public pay telephone availability.[84]

[84] APCC's Comments to FCC's Public Notice "Comment Sought on TracFone Request for Clarification of Universal Service Lifeline Program 'One-per-Household' Rule as Applied to Group Living Facilities," WC Docket No. 03-109, DA 09-2257, released October 21, 2009; see also APCC Comments, dated November 20, 2009, <http://www.apcc.net/files/public/APCC-TracFone-comments_as-filed112009.pdf>, accessed on March 26, 2010.

Chapter IV. Wireless, VoIP, and Broadband

A. Wireless

In recent years, the wireless handset has transitioned from being a voice communications device to an always-connected mini computer that will fit into your pocket. The growth in applications and technology has spurred investment into faster and more capable infrastructure. Fourth Generation or 4G technology is becoming the industry standard of choice in order to meet increasing demand from mobile devices, including laptops with wireless cards. In fact, the FCC reported that 90 percent of the U.S. population had a mobile device capable of voice communication by the end of 2008.[85] Wireless providers are investing in necessary infrastructure upgrades to meet growing demand and remain competitive. Wireless coverage is also increasing. Table 4-1 gives a national analysis of the number of carriers providing service by population.[86]

Table 4-1. Wireless Provider Coverage by Population

Population	% of Population	# of Providers
284 million	99.6	1
281 million	98.6	2
272 million	95.8	3+

Source: FCC, "14th Annual Report on Mobile Wireless Competition"

According to the FCC, 86 percent of the geographic area of the U.S. meets the definition of a rural area (counties with a population density of 100 people or fewer per square mile). Approximately 21 percent of the U.S. population lives in these areas. Geographic analysis indicates that 98.5 percent of the rural population is served by at least one wireless carrier.[87]

While growth in the wireless sector has continued, the market is likely nearing the end of its expansionary phase. According to analysts with Bernstein Research, wireless subscription

[85] FCC, "14th Annual Report on Mobile Wireless Competition," p. 5, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-81A1.pdf>, accessed on May 21, 2010.
[86] Ibid, p. 89.
[87] Ibid, p. 18.

reached 91 percent of the population nationwide by year-end 2009, up from 87 percent at the end of 2008.[88]

While subscription has reached a high saturation point and growth potential is minimal, use of text and data services saw large increases. CTIA, the international wireless carrier association, reported that in the last half of 2009 consumers used more than 1.1 trillion minutes and sent almost 5 billion text messages. Wireless service providers garnered $41.5 billion in revenue from data services in 2009, a 29.6 percent increase from 2008 data revenues.[89, 90] However, data revenues experienced a 25 percent decline in the rate of growth from the prior year. Despite total handset shipment decreases, Wi-Fi enabled handsets increased 20 percent in 2009, and are expected to account for a quarter of all handsets shipped by 2012.[91] CTIA reported that, as of the end of 2009, more than 257 million data-capable devices were in circulation.[92] The FCC reported 67 new smartphones were introduced in 2008 and 2009. In contrast, wireless voice minutes of use declined for the first time in 11 years, suggesting that some text and data services are, to some degree, replacing the use of wireless voice service.[93]

While wireless services experienced a large increase in usage, wireless revenues increased only 3.3 percent, or $77 million, in 2009. Industry analysts predict that revenue growth in 2010 will decrease approximately 2.7 percent. Total wireless revenues are not keeping pace with consumption of wireless data services. Analysts speculate that changes in pricing of data services may enable wireless carriers to slow or stop the current decline in revenue growth.[94] Initially, data plans were offered on an unlimited basis for one set price. The tiered data plan concept currently offered by Verizon Wireless and AT&T offers customers a specific amount of data usage on an escalated scale that coincides with escalated prices. For example, Verizon offers 25 megabytes (MB) of data usage for $9.99 with a 20¢ charge for every MB used that is over the 25 MB allowance. They also offer an unlimited data option for $29.99. AT&T

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[88] Craig Moffet, "Wi Telco '10: What a Difference a Year Makes. Upgrading VZ & Sector to Neutral; A Deep Dive into the iPhone and Fed Rates," *Bernstein Research*, February 9, 2010, <http://reports.bernsteinresearch.com/researchlinks/View.aspx?eid=Gqmr7JNbTDWM9SeLVPGmqXR8bv6Yy%2fAxhbJsEuGOIgg1CcyMBJ%2bPk8lo0S6SzDy%2b>, accessed on March 12, 2010.

[89] "CTIA – The Wireless Association® Announces Semi-Annual Wireless Industry Survey Results April 1, 2009," CTIA Press Release, April 1, 2009, <http://www.ctia.org/media/press/body.cfm/prid/1811>, accessed on March 14, 2010. "Wireless Quick Facts Year-End Figures," CTIA, April 13, 2010, <http://www.ctia.org/advocacy/research/index.cfm/AID/10323>, accessed on May 21, 2010>, accessed on May 21, 2010.

[90] "Wireless Quick Facts Year-End Figures," CTIA Press Release, April 13, 2010, <http://www.ctia.org/advocacy/research/index.cfm/AID/10323>, accessed on May 21, 2010>, accessed on May 21, 2010.

[91] "A Quarter of all Handsets shipped will be Wi-Fi Enabled by 2012," *In-stat Market Alert*, In-Stat, March 22, 2010.

[92] "CTIA – The Wireless Association® Announces Semi-Annual Wireless Industry Survey Results April 1, 2009," CTIA Press Release, April 1, 2009, <http://www.ctia.org/media/press/body.cfm/prid/1811>, accessed on March 14, 2010.

[93] Ibid, p. 10.

[94] Wailin Wong, "Mobile phone usage keeps growing," *LA Times*, March 25, 2010, <latimes.com/business/la-fi-texts25-2010mar25,0,7410035.story>, accessed on March 26, 2010.

offers 200 MB of data usage for $15, 2 gigabytes of data usage for $25, and no longer offers an unlimited data plan.[95, 96]

In addition to recovering revenue, tiered data plans address the depleting amount of spectrum that is available for commercial use. President Obama, in a Presidential Memorandum released June 26, 2010, proposed to transfer 500 megahertz of spectrum from federal and private use to primarily commercial use over the next 10 years. That is nearly double the amount that is currently available. The proposal coincides with the FCC's National Broadband Plan. Portions of the proposal will require congressional approval, but if successful, will improve data and video transfers via a wireless connection.[97]

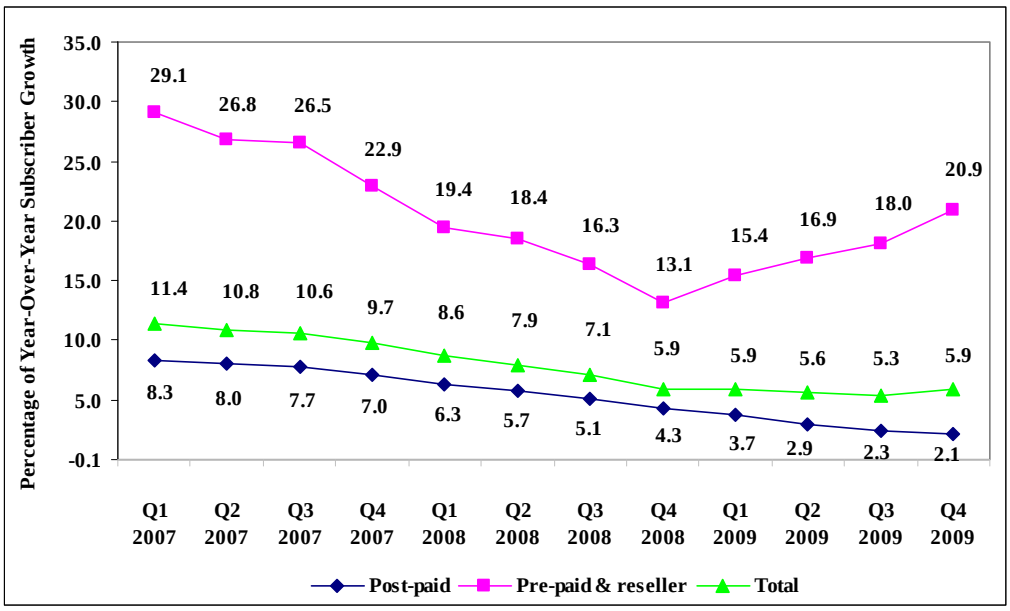
[95] Verizon Wireless, FamilyShare Plans, <http://www.verizonwireless.com/b2c/splash/planfamily.jsp.>, accessed on May 27, 2010.

[96] "AT&T Announces New Lower-Priced Wireless Data Plans to Make Mobile Internet More Affordable to More People**,"** AT&T Press Release, June 2, 2010, <http://www.att.com/gen/press-room?pid=17991&cdvn =news&newsarticleid=30854&mapcode=financial|Wireless>, accessed on June 14, 2010.

[97] Office of the Press Secretary, "Presidential Memorandum: Unleashing the Wireless Broadband Revolution," The White House, June 28, 2010, <http://www.whitehouse.gov/the-press-office/presidential-memorandum-unleashing-wireless-broadband-revolution>, accessed on July 16, 2010.

Prepaid wireless plans continued to attract consumers in an unsteady economy by offering low-priced service without a long-term commitment. In the fourth quarter of 2009, prepaid and reseller wireless market share had increased to 20.9 percent, up from 13.1 percent in the fourth quarter of 2008. Market analysts for Bernstein Research expect growth in the prepaid market to continue in 2010 at a rate of 18.2 percent. In contrast, post-paid market share increased only 2.1 percent for the same period as seen in Figure 4-1. Expected post-paid subscriber growth in 2010 is estimated to reach only 1.2 percent.[98]

Figure 4-1. U.S. Wireless Industry Subscriber Growth Rates



Source: Company reports, Bernstein Research estimates and analysis

The 2 largest carriers, AT&T and Verizon Wireless, share 60 percent of the total number of wireless subscribers and revenues and accounted for 14.1 million net additions in 2009. These carriers tend to focus on technology and the upper end of the market as their plans are more expensive. Comparatively, the next 2 largest carriers, T-Mobile USA (T-Mobile) and Sprint Nextel Corporation (Sprint Nextel), lost subscribers in 2008 and gained only 827,000 subscribers in 2009. Each of these companies markets traditional post-paid services and prepaid offerings that focus on unlimited access and appear to appeal to those customers who are more budget conscious. Considering the success of prepaid wireless plans, these companies may be losing

[98] Craig Moffet, "Wireless 2010: Like Déjà vu, All Over Again Industry Growth Now Below 3 percent, and Estimates (Again) Look Too High," *Bernstein Research*, February 26, 2010, <http://reports.bernsteinresearch.com/researchlinks/view.aspx?eid=xzB2wBUF31cKyEnY7cnXBoNUPcAFcejNfPrtWnFC6hUPBkdjbKQ7Gi2gmPiBF9rs>, accessed on March 12, 2010.

subscribers from their post-paid offerings. Churn rates of T-Mobile and Sprint Nextel are twice those of AT&T's and Verizon's.[99]

1. Wireless-Only Households

Wireless-only households continued to increase in 2009. The Centers for Disease Control recently reported that wireless-only households reached 24.5 percent as of December 2009, an increase from 20.2 percent as of December 2008. In addition, the report concluded that 14.9 percent of U.S. households with both a landline and wireless phone received most calls via a wireless phone. The Centers for Disease Control reported that of those surveyed:

- 48.6 percent of adults between the ages of 25 and 29 live in wireless-only households.
- Non-Hispanic white adults (21 percent) are more likely to keep a landline compared to Hispanic adults (30.4 percent).
- Adults in the Midwest (25.6 percent) are more likely to live in wireless-only households than adults in other parts of the country.
- 37.8 percent of adults between the ages of 18 and 24 represent the largest segment of the population that is wireless only.[100]

2. Florida Trends

Florida wireless subscription trends mirror those of the U.S. Florida subscriptions grew from December 2007 to December 2008, but continued the trend of a decreased rate of growth over time. Florida experienced an increase of 553,000 subscribers during that time period, a 4 percent increase, compared to a 6 percent increase from December 2006 to December 2007. Total wireless subscribers in Florida, as of December 2008, reached 16.2 million handsets.[101]

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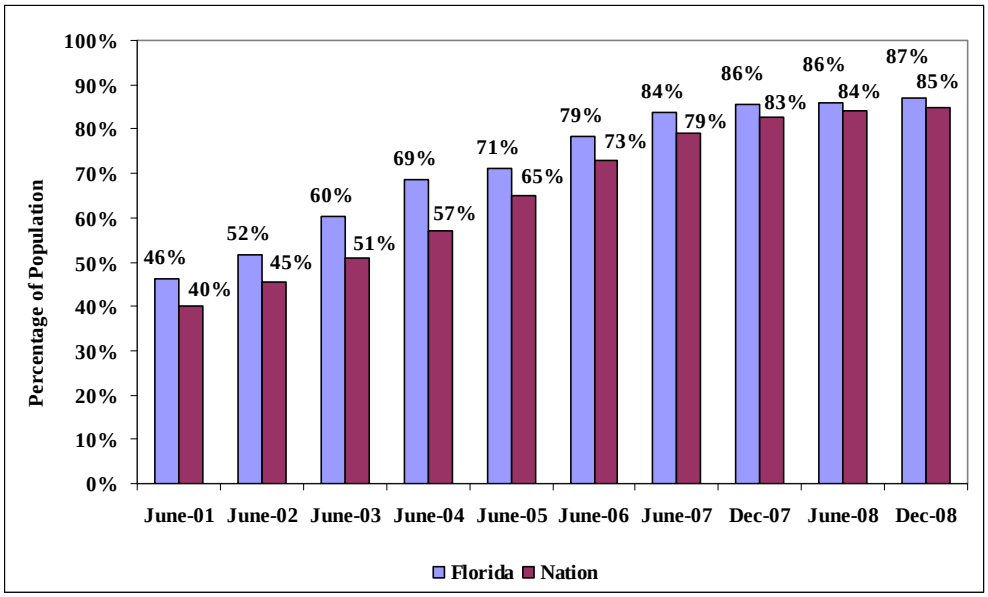
[99] FCC, "14th Annual Report on Mobile Wireless Competition," p. 9, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-81A1.pdf>, accessed on May 21, 2010.

[100] S.J. Blumberg, J.V. Luke, "Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July - December 2009," December 16, 2009, p. 1, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201005.pdf>, accessed on May 12, 2010.
FCC, "Local Telephone Competition: Status as of December 31, 2008,"June 2010, Table 17, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-299052A1.pdf>, accessed on July 8, 2010.

Total subscribership results as of December 2008 show that Florida exceeds the national subscription level by 2 percent, as seen in Figure 4-2; however, this difference is the smallest since 2001. Initially, Florida was ahead of the nation in adopting wireless technology, but now that subscription levels are getting closer to market saturation points, the overall growth is declining. Figure 4-2 suggests that Florida is ahead of the nation in the inevitable slowing of wireless subscription growth.[102]

Figure 4-2. Wireless Subscription as Percentage of Population



Source: FCC, Local Telephone Competition: Status as of June 30, 2008; U.S. Census Bureau, State Population Estimates

[102] Ibid.

Wireless subscription levels vary across the state of Florida. The FCC surveyed some of the largest cities in Florida and found that only one area (Sarasota/Bradenton) was below the statewide average of 86 percent as of June 2008. Figure 4-3 depicts the subscribership rate in different areas throughout the state.[103]

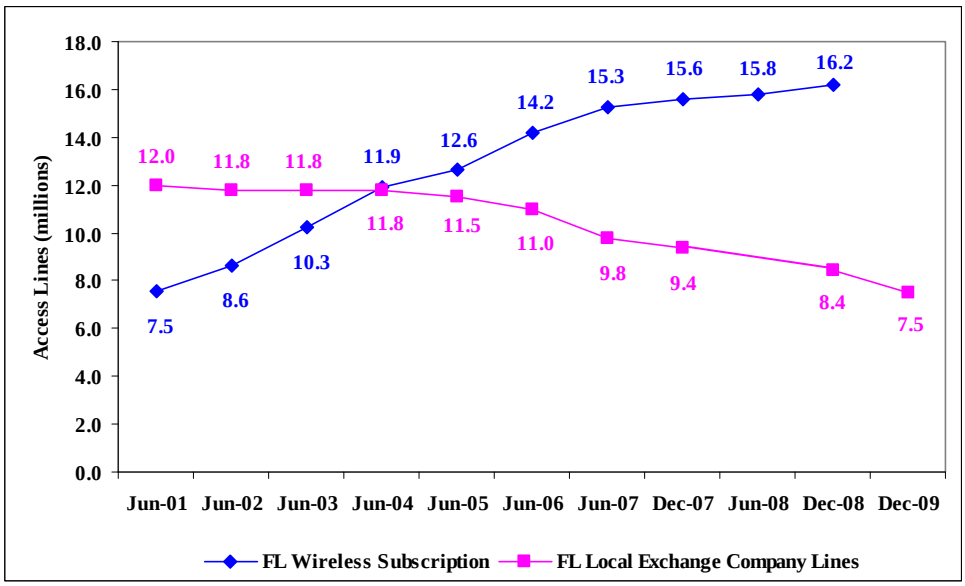
Figure 4-3. Wireless Subscription Levels Throughout Florida

Source: FCC, "14th Annual Report on Mobile Wireless Competition"

[103] FCC, "14th Annual Report on Mobile Wireless Competition," Table C-3, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-81A1.pdf>, accessed on May 21, 2010.

Figure 4-4 shows that Florida wireless subscriptions have continued to surpass Florida wireline access lines. The number of wireless handsets in Florida has increased significantly over the number of wireline access lines in the state, and the gap continues to widen. Local exchange company access lines in Florida have declined 25 percent since the end of 2005, while wireless subscriptions have increased by 29 percent during the same time period.[104] Wireless handsets outnumbered wireline access lines by 7.8 million as of December 2008.[105, 106] Florida wireless subscribership increased by 3.4 million subscribers from December 2005 to December 2008.[107]

Figure 4-4. Florida Local Exchange Access Lines and Florida Wireless Subscriptions



Source: FCC, Local Telephone Competition: Status as of December 31, 2008; Response to FPSC data requests (2001–2010)

[104]FCC, "Local Telephone Competition: Status as of December 31, 2008,"June 2010, Table 17, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-299052A1.pdf>, accessed on July 8, 2010.
[105] FCC, "Local Telephone Competition: Status as of December 31, 2008,"June 2010, Table 11, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-299052A1.pdf>, accessed on July 8, 2010.
[106] FPSC, responses to 2001-2008 Local Competition data requests.
[107] FCC, "Local Telephone Competition: Status as of December 31, 2008,"June 2010, Table 17, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-299052A1.pdf>, accessed on July 8, 2010.

B. Voice over Internet Protocol

Yankee Group market research estimates 24.5 million VoIP connected households in the U.S. for year-end 2009. This includes cable, over-the-top providers, and FTTH subscribers. This compares to year-end totals of 129,000 VoIP-connected households in 2003.[108]

Data collected by the FPSC show an estimated 1.8 million Florida residential consumers subscribe to VoIP service. An estimate for the Florida business VoIP market is not available because of limited response data. Information from company press releases, financial reports, and market research reveals that VoIP business subscription is rapidly expanding. Cox Communications, for example, was the first cable company to reach $1 billion in business revenues in 2010 and anticipates $2 billion within 6 years.[109] About 80 percent of the 250,000 business customers served by Cox have fewer than 20 employees, but in the near future, the company expects to aggressively pursue businesses in the 20- to 99-employee range. Market research compiled by In-Stat forecasts VoIP penetration to reach 79 percent of U.S. businesses by 2013, compared to 42 percent at the end of 2009.[110] This projected growth reflects recognition that IP-based service can produce cost savings as well as service flexibility.

1. National Market

Market research firm Pike & Fischer forecasts that the number of VoIP-connected households will exceed 25 million in the U.S. by the end of 2010, with growth at about 14 percent annually over the next few years. Yankee Group reports a more optimistic estimate of 33.5 million by the end of 2010.[111] These estimates suggest continued strong but slower growth for cable VoIP subscribers. The continued decline in traditional wireline access lines and increases in wireless-only households casts some doubt on the long term growth potential for cable VoIP service. The fact that voice is not the primary service offering for cable companies could be a mitigating factor. There are likely to be relatively fewer voice-only cable VoIP subscribers than voice-only subscribers of traditional wireline providers. Significantly lower churn rates for customers subscribing to bundled services may suggest that cable providers are somewhat less susceptible to wireless substitution than their traditional wireline counterparts.[112]

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[108] "U.S. VoIP Consumer Forecast, December 2003-2013," Yankee Group Research, Inc., received by e-mail on March 10, 2010.
[109] Jeff Baumgartner, "Cox Targets $2B in Biz Revenues," Cable Digital News, December 3, 2009, <http://www.lightreading.com/document.asp?doc_id=185383&site=cdn>, accessed on February 9, 2010.
[110] "VoIP Penetration Forecast to Reach 79% of U.S. Businesses by 2013," In-Stat Market Alerts, February 2, 2010, <http://www.instat.com/press.asp?ID=2720&sku=IN1004350CT>, accessed on February 2, 2010.
[111] "Residential VoIP Market Outlook," Pike & Fischer, Inc., October 2008, <http://www.pf.com/marketResearchPDInd.asp?repId=630>, accessed on January 11, 2010.
[112] "U.S. VoIP Consumer Forecast," Yankee Group Research, Inc., December 2003-2013," received by e-mail on March 10, 2010.

a. Facilities-Based VoIP Providers

Cable companies continue to have the largest share of the facilities-based VoIP market with a reported 22.2 million cable voice subscribers at the end of 2009.[113] Based on the number of subscribers, nationwide the top cable VoIP telephony providers are:

- Comcast Corporation 7.6 million subscribers[114]
- Time Warner Cable 4.2 million subscribers[115]
- Cablevision Systems Corporation 2.1 million subscribers[116]
- Cox Communications 0.7 million subscribers[117, 118]

Comcast is the third-largest residential telephone service provider in the U.S., exceeded only by AT&T and Verizon.[119] Despite the weak economy, Comcast added 1.2 million VoIP subscribers in 2009 and remains the leading facilities-based VoIP provider based on subscriber numbers. The growth rate slowed, however, as Comcast added only 243,000 VoIP subscribers in the fourth quarter of 2009, down 29 percent compared to fourth quarter 2008.[120] Comcast net additions for the first quarter of 2010 increased 13 percent from the previous quarter despite continued concerns about the growing number of wireless-only households.[121]

Though cable companies currently dominate the residential VoIP market, traditional wireline telephone companies have responded with their own facilities-based VoIP services, in particular, VoIP associated with fiber-based services. An estimated 1.1 million VoIP subscribers

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[113] National Cable & Telecommunications Association, "Industry Data: Operation Metrics (as of December 2009," <http://www.ncta.com/StatsGroup/OperatingMetric.aspx>, accessed on May 21, 2010.
[114] Comcast Corporation, "Comcast Reports Fourth Quarter and Year End 2009 Results," February 3, 2010, <http://www.cmcsk.com/releasedetail.cfm?ReleaseID=442388>, accessed on March 12, 2010.
[115] Time Warner Cable, Inc., Form 10-K, Fourth Quarter 2009 Results, February 19, 2010, <http://ir.timewarnercable.com/phoenix.zhtml?c=207717&p=irol-sec>, accessed on March 12, 2010.
[116] Cablevision Systems Corporation, "Fourth Quarter and Full Year 2009 Results," February 25, 2010, <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MzMzOTN8Q2hpbGRJRD0tMXxUeXBlPTM=&t=1>, accessed on March 12, 2010.
[117] Cox, "Join More than 2.5 Million Phone Customers Saving with Cox," <http://ww2.cox.com/residential/centralflorida/phone.cox>, accessed on February 3, 2010.
[118] On February 4, 2010, an e-mail from Cox notes that the breakdown of circuit-switched versus VoIP customers cannot be provided based on competitive and other business reasons. Therefore, the estimated 1.83 million circuit-switched customers as of July 2008 reported last year has been used for this report.
[119] Comcast Investor Relations Homepage, "Comcast Now the Third Largest Residential Phone Services Provider in the U.S.," March 11, 2009, <https://www.comcast.com/About/PressRelease/PressReleaseDetail.ashx?PRID=844>, accessed on February 10, 2010.
[120] Comcast Corporation, "Comcast Reports Fourth Quarter and Year End 2009 Results," February 3, 2010, <http://www.cmcsk.com/releasedetail.cfm?ReleaseID=442388>, accessed on March 12, 2010.
[121] Bernstein Research, "Comcast: Torrent of Case," April 28, 2010, p.1-3, <http://reports.bernsteinresearch.com/researchlinks/view.aspx?eid=%2fOYF%2fDE%2fVzli01et0RBibf9awiD70soUtvgaKLEyxuJaBnam2YI%2fVYZiGvD5f1Jz>, accessed on May 19, 2010.

were served through FTTH technology at the end of 2009.[122] As of year-end 2009, AT&T also reported that more than three-fourths of its 2.1 million U-verse TV subscribers have a triple- or quad-play (voice, video, data, and wireless) services package.[123] The reported number of subscribers to U-verse bundles translates to approximately 1.6 million U-verse Voice (not considered a FTTH service) subscribers. Verizon announced that it was offering a FiOS Digital Voice service, a VoIP product, in June 2010 in 12 states including Florida. FiOS Digital Voice service runs over Verizon's private fiber optic network and offers 21 calling features.[124] Verizon provides its FiOS Internet TV service in 16 states and it will be available to 18 million customers by the end of 2010. The deployment of fiber, in order to facilitate digital end user services by both AT&T and Verizon, slowed in 2009. Both companies are nearing completion of their stated fiber deployment plans related to U-verse and FiOS services. As fiber deployment for both companies winds down, further deceleration of customer growth for FiOS and U-verse customers (including residential VoIP customers) appears likely.[125]

b. Over-the-Top VoIP Providers

Over-the-top VoIP providers offer low-priced telephone services for consumers that already subscribe to broadband Internet access.[126] Service reliability and call quality are sometimes compromised, however, because over-the-top VoIP providers route calls over the public Internet rather than private IP-managed networks. The price advantage over facilities-based VoIP providers seems to be sufficient enough to attract significant numbers of consumers. Various providers offer over-the-top VoIP services including Vonage, Packet8, Skype, magicJack,[127] and Google. The Yankee Group estimates 3.6 million consumers had subscribed to over-the-top interconnected VoIP services at the end of 2009.[128]

Vonage, Packet8, magicJack, Skype, and Google are the leading over-the-top VoIP providers based on the number of subscribers. Skype is not currently a publicly traded company, and U.S. specific subscription data is not generally available, thus making conclusions regarding market sector growth and market share ambiguous. For those companies whose subscription

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[122] Yankee Group Research, Inc., "U.S. VoIP Consumer Forecast," December 2003-2013, received on March 10, 2010.
[123] AT&T, "Fourth Quarter Wireline Operational Highlights," January 28, 2010, <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=30429>, accessed on February 1, 2010.
[124] Verizon, "FiOS, the Best Choice, Now Available With the Best Voice," June 3, 2010, <http://newscenter.verizon.com/press-releases/verizon/2010/FiOS-the-Best-Choice-Now-Available-With-the-Best-Voice.html>, accessed on June 4, 2010.
[125] Bernstein Research, "U.S. Telecom and U.S. Cable and Satellite: Has TelCo TV Passed Its Peak?," March 24, 2010.
[126] The phrase "over-the-top VoIP" refers to a VoIP service that requires a consumer to obtain broadband access from another company.
[127] The trade name "magicJack" uses a lowercase "m." Note that when the company name appears in this report at the beginning of a sentence, the "m" is capitalized.
[128] Yankee Group Research, Inc., "U.S. VoIP Consumer Forecast," December 2003-2013, received on March 10, 2010.

data is accessible, Vonage remains the leader, reporting 2.29 million U.S. subscribers as of fourth quarter 2009, a decline of 19,000 customers from the previous year.[129]

Packet8 reported 56,547 residential and 19,407 business subscribers as of fourth quarter 2009, a decrease of 30,445 residential lines from 2008. Packet8 added 4,701 business lines in 2009 and now considers itself a "provider of innovative business solutions."[130] MagicJack claims to have 5 million users since its service launch just 2 years ago, and the company charges $20 for each year of service, unlike the typical monthly rates offered by other carriers.[131]

Skype reports more than 521 million registered users worldwide and continues its focus on product strategies to enhance customer engagement.[132] Skype offers several levels of VoIP services including subscription services, SkypeIn and SkypeOut, which interconnect with the public switched telecommunications network. Skype also continues to offer its free peer-to-peer service.

Google's free (invitation-only) Google Voice service has 1.4 million users as reported by the company in an October 2009 filing with the FCC.[133] Google Voice service provides not only call management features, but also voicemail transcription via e-mail and the ability for users to save text and voicemail messages via a searchable online inbox. Google plans to build ultra high-speed, fiber-optic broadband networks in a handful of trial locations throughout the U.S. in communities with 50,000 to 500,000 people.[134] Sixty Florida communities have submitted applications in hopes of attracting Google fiber investment.[135]

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[129] Vonage Holdings Corp., Fourth Quarter and Full Year 2009 Results, February 25, 2010, <http://pr.vonage.com/releasedetail.cfm?ReleaseID=447133>, accessed on March 1, 2010. See also Form 10-K, Fourth Quarter 2009 (noting that 94 percent, or 2.29 million, of the 2.43 million represents U.S. subscriber lines with the remaining 6 percent, or 146,094, lines serving customers in Canada and the U.K.), February 26, 2010, <http://files.shareholder.com/downloads/VAGE/838018420x0xS1193125-10-43170/1272830/filing.pdf>, accessed on March 1, 2010.

[130] 8x8, Inc., Third Quarter Fiscal 2010 Results (data as of December 31, 2009), January 27, 2010, <http://files.shareholder.com/downloads/EGHT/838084971x0x346941/6785eca2-ea16-4157-bd83-0b9e7c5ea446/EGHT_News_2010_1_27_General_Releases.pdf>, accessed on February 5, 2010.

[131] Stephen Lawson, "magicJack harnesses femtocell for VoIP," January 7, 2010, <http://www.networkworld.com/news/2010/010810-magicjack-harnesses-femtocell-for.html?source=NWWNLE_nit_convergence_voip_2010-01-25>, accessed on February 5, 2010.

[132] EBay, Inc., "Fourth Quarter and Full Year 2009 Results," January 20, 2010, <http://files.shareholder.com/downloads/ebay/825395101x0x345224/b455630d-4bb9-4ba5-adb1-40dcf29e82ce/eBay_Q409EarningsRelease.pdf>, accessed March 25, 2010. Skype's comments in response to the FCC's National Broadband Plan at <https://www.neca.org/cms400min/NECA_Templates/Neca_Home.aspx>, December 22, 2009, accessed on February 18, 2010 ("521 million registered users globally").

[133] Arik Hesseldahl, "How Google Voice is Growing," BusinessWeek, October 30, 2009, <http://www.businessweek.com/technology/content/oct2009/tc20091030_329665.htm>, accessed on February 8, 2010.

[134] Jeffrey Silva, "Google As Policy Provocateur," Medley Global Advisors, February 11, 2010; see also: Larry Hettick and Steve Taylor, "Google to Test Ultra High-Speed Broadband Networks," Network World, February 16, 2010, <http://www.networkworld.com/newsletters/converg/2010/021510convergence2.html>, accessed on February 19, 2010.

[135] "Google Fiber to Communities: interactive map: List of government responses," Google, <http://www.google.com/appserve/fiberfi/public/list>, accessed on May 28, 2010.

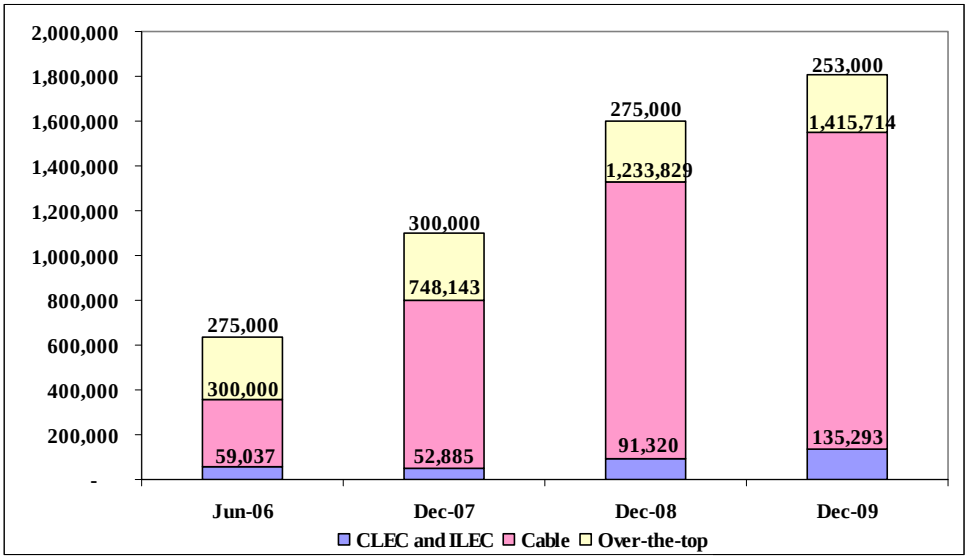
Vonage appears to be maintaining its lead in the over-the-top VoIP segment of the market, although its subscriber line count at year-end 2009 decreased by 8 percent. Vonage lost 187,996 lines in 2009 compared to the 25,583 lines added in 2008.[136]

2. Florida Market

Some limitations exist in arriving at an accurate estimate of VoIP subscribers in Florida because the Commission does not have jurisdiction over VoIP service. The Florida Cable Telecommunications Association (FCTA), however, reported residential data for its six member providers. A number of CLECs and ILECs voluntarily responded to the Commission's data request. Based on a review of reported data, an estimated 1.8 million residential VoIP subscribers are in Florida as of December 2009. This total represents a 12.5 percent increase over the 1.6 million residential VoIP subscribers as of December 31, 2008. An estimate for the business market is not possible because of limited data. However, CLECs and ILECs reported 116,914 VoIP business lines for 2009, and some Florida cable companies provide voice services to business customers.

Figure 4-5 shows the composition of reported Florida residential VoIP market, based on the Commission's estimates, as of December 2009.

Figure 4-5. Estimated Florida Residential VoIP Access Lines



Source: Responses to FPSC data requests (2006-2010)

[136] Vonage Holdings Corp., Fourth Quarter and Full Year 2009 Results, February 25, 2010, <http://pr.vonage.com/releasedetail.cfm?ReleaseID=447133>, accessed on March 1, 2010. See also Form 10-K, Fourth Quarter 2009 (noting that 94 percent, or 2.29 million, of the 2.43 million represents U.S. subscriber lines with the remaining 6 percent, or 146,094, lines serving customers in Canada and the U.K.), February 26, 2010, <http://files.shareholder.com/downloads/VAGE/838018420x0xS1193125-10-43170/1272830/filing.pdf>, accessed on March 1, 2010.

a. Facilities-Based VoIP Providers

The FCTA provided a count of its member companies' residential cable telephony subscribers. FCTA reports that its member companies collectively have 1.4 million Florida residential cable VoIP subscribers as of December 2009. Florida cable VoIP subscribership increased by 181,885 subscribers from the 1.2 million reported to the FPSC as of 2008, an increase of 14.7 percent.[137] As reflected in Figure 4-5, there is a significant drop in new VoIP customers added by cable providers from the preceding two years.

AT&T's VoIP service, U-verse Voice, was launched in the Jacksonville area on January 26, 2009, the first market in the Southeast to obtain the service.[138] AT&T expanded U-verse Voice availability to a total of 21 Florida counties as of May 2009 from 6 counties reported in 2008.[139] AT&T's reported U-verse Voice subscribers for Florida are reflected in Figure 4-5.

In response to the Commission's data request, 47 CLECs and 3 ILECs provided VoIP line counts. A total of 135,293 residential VoIP lines and 116,914 business VoIP lines were reported for 2009, a 48.2 percent increase and a 2.6 percent decrease, respectively, from 2008.

b. Over-the-Top VoIP Providers

Vonage, Skype, magicJack, and Packet8 are some of the competitive providers in this segment of the VoIP market. Over-the-top VoIP providers are not certificated in Florida, limiting the Commission's ability to collect Florida-specific data. Vonage failed to file Florida subscription data for 2009. Vonage experienced a decline in growth of approximately 8 percent nationwide.[140] Applying an 8 percent reduction to last year's estimate of Florida over-the-top VoIP subscribers results in an estimate of 253,000 subscribers for 2009.

Overall, the number of residential VoIP subscribers in Florida is estimated to be 1.8 million, an estimated increase of 12.5 percent from 2008. The growth in residential VoIP subscribers has been driven primarily by the growth reported by cable VoIP providers.

C. Broadband

A general consensus among federal, state, and local governments, private industry, and consumers recognizes the importance of broadband Internet access as a tool to improve education, commerce, safety, and security in our daily lives. Despite that consensus, a difference

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[137] Florida Public Service Commission, "2009 Report on the Status of Competition in the Telecommunications Industry," August 1, 2009, p.47.
[138] "AT&T U-verse Launches a New Kind of Home Phone Service in Jacksonville with AT&T U-verse Voice," AT&T Press Release, January 26, 2009, <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=26495>, accessed on February 16, 2009.
[139] Reported to the FPSC via e-mail on May 24, 2009. U-verse Voice is available in parts of the following counties in AT&T's Florida footprint: Brevard, Broward, Clay, Duval, Escambia, Flagler, Indian River, Lake, Martin, Miami-Dade, Monroe, Nassau, Osceola, Orange, Palm Beach, Putnam, Santa Rosa, Seminole, St. Johns, St. Lucie, and Volusia.
[140] Vonage Holdings Corp., Fourth Quarter and Full Year 2009 Results, February 25, 2010, <http://pr.vonage.com/releasedetail.cfm?ReleaseID=447133>, accessed on March 1, 2010.

of opinion exists on the nature and extent of the shortage or lack of broadband Internet access and how to address the shortage. Federal grant and loan programs as established by the ARRA and other federal efforts resulting from the NBP, released by the FCC in March 2010, attempt to address broadband availability and related issues. Additionally, in 2009 the Florida legislature charged the Department of Management Services (DMS) with the responsibility of mapping Florida broadband availability and developing a plan to address any shortcomings. It is premature to conclude whether these various efforts are having a positive impact on broadband availability and subscribership.

1. National Broadband Trends

Broadband subscription continued to increase in 2009 and early 2010, and it appears to be leveling off. The top cable and telephone providers added slightly fewer than 4.1 million subscribers in 2009, with cable companies adding 2.3 million, and the largest telecommunications providers adding 1.7 million.[141] The most recent study released by the Pew Internet & American Life Project states that, by the end of 2009, the increase in broadband subscription was only 3 percent, which is within the margin of error of the results of their previous estimate.[142] A study released by the FCC prior to the NBP shows that 67 percent of U.S. households have a regular broadband user and 65 percent of adults use broadband from their homes.[143] Other trends in early 2010 include:

- Bundling broadband service with cable, cellular, and other services[144]
- Dramatic increases in download and upload speeds[145]
- The perpetuation of the digital divide[146]
- Increased usage of handheld devices or smartphones to access the Internet[147]

a. National Broadband Subscribership

According to a recent FCC study, 78 percent of adults are Internet users, which includes dial-up Internet and the use of the Internet from anchor institutions and work places. Only 6 percent have dial-up connections, and 6 percent access the Internet exclusively from places other than where they reside. While 63 percent of white, non-Hispanic Americans are broadband

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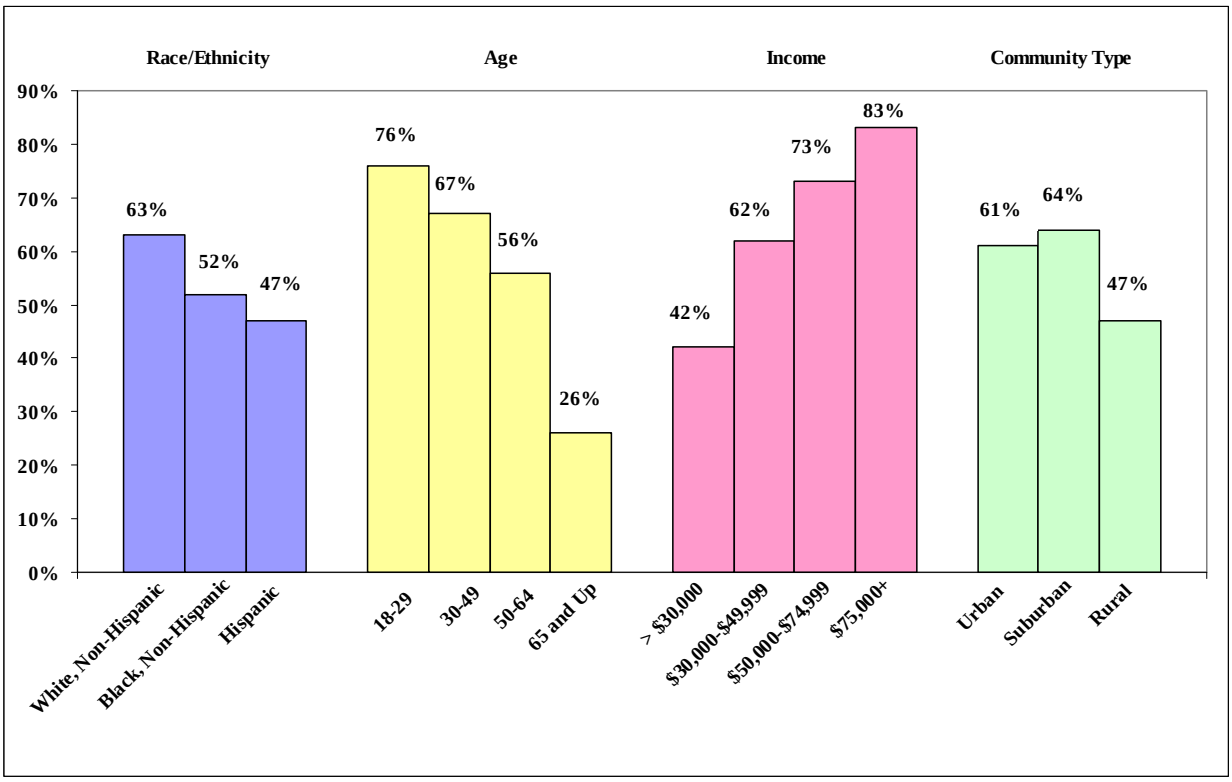
[141] "4.1 Million Added Broadband From Top Cable and Telephone Companies in 2009," LRG Press Release, March 12, 2010, <http://www.leichtmanresearch.com/press/031210release.html>, accessed April 15, 2010.
[142] Lee Rainie, "Internet, Broadband and Cell Phone Statistics," Pew Internet & American Life Project, Washington, D.C., January 5, 2010, p. 1.
[143] FCC, "Broadband Adoption and Use In America," Released February 23, 2010, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296442A1.pdf>, accessed on April 10, 2010.
[144] Robert Atkinson and Ivy Schultz, "Broadband in America," Columbia Institute for Tele-Information, New York, NY, November 11, 2009, pp. 7-17.
[145] Ibid.
[146] Lee Rainie, "Internet, Broadband and Cell Phone Statistics," Pew Internet & American Life Project, Washington, D.C., January 5, 2010, p. 1.
[147] Ibid.

subscribers, 52 percent of African Americans have broadband at home.[148] A report published by the National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce, found that in October 2009, 39.7 percent of Hispanics living in America were broadband adopters, and the Pew Internet & American Life Project found that in January 2010, 47 percent of Hispanics were home broadband users. Figure 4-6 outlines some of the disparities in broadband subscription between different demographic groups.[149, 150]

Figure 4-6. Demographics of Home Broadband Use



Source: Pew Internet and American Life Project (January 2010)

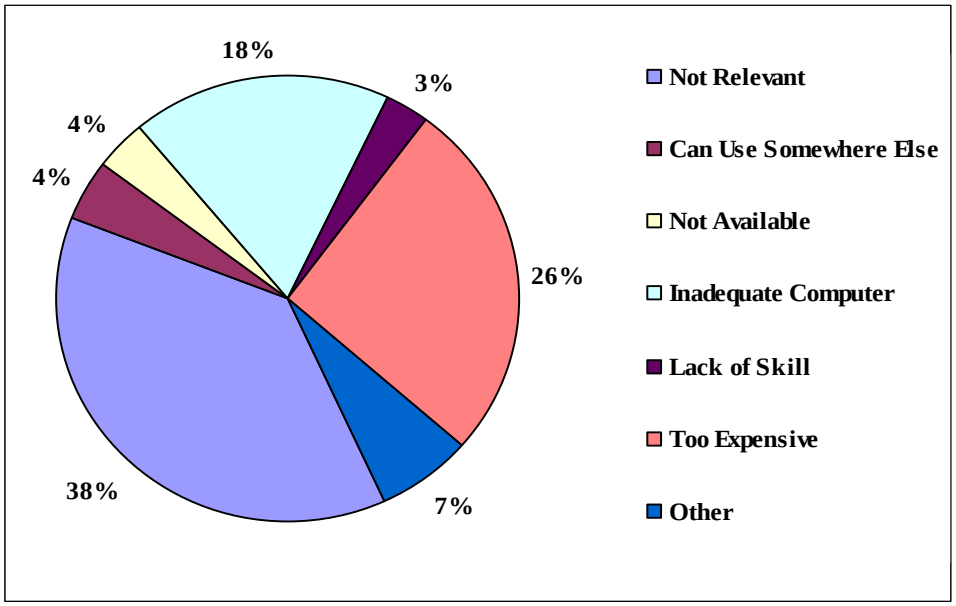
The NTIA study concluded that "persons with high incomes, those who are younger, Asians and Whites, the more highly-educated, married couples, and the employed tend to have higher rates of broadband use at home."[151] The FCC report noted that 42 percent of Americans

[148] Ibid, p. 4.
[149] NTIA, "Digital Nation: 21st Century America's Progress Toward Universal Broadband Internet Access," Released February 2010, <http://www.ntia.doc.gov/reports/2010/NTIA_internet_use_report_Feb2010.pdf>, accessed on April 10, 2010.
[150] Lee Rainie, "Internet, Broadband and Cell Phone Statistics," Pew Internet & American Life Project, Washington, D.C., January 5, 2010, p. 4.
[151] NTIA, "Digital Nation: 21st Century America's Progress Toward Universal Broadband Internet Access," Released February 2010, <http://www.ntia.doc.gov/reports/2010/NTIA_internet_use_report_Feb2010.pdf>, accessed on April 10, 2010.

with disabilities have broadband at home, and seniors continue to be the group with the lowest rate of adoption, at 35 percent.[152] Both reports concur that the main dividing lines for broadband access are income and education. Various groups tend to use broadband for differing purposes. For example, 83 percent of African Americans are likely to have looked for or applied for a job online versus the 60 percent for the total population. Hispanics were most likely to use their Internet connection to download music or keep up with news about their communities.[153]

Of the 35 percent who do not have high-speed Internet access in their homes, the largest percentage cite cost as the predominant factor. Other non-adopters either do not feel that they have the skills necessary to use broadband, or that it is not relevant to their lives. The smallest group of those who do not have broadband access, 12 percent, indicated availability as the reason. Most of those surveyed claimed that they would be able to afford broadband Internet access in their home if it were priced at $25/month or less. The average monthly cost for a basic broadband subscription is slightly over $40.[154] Figure 4-7 shows the reasons respondents gave for not having broadband in their homes.

Figure 4-7. Why Respondents Do Not Have Broadband



Source: National Telecommunications and Information Administration (February 2010)

[152] FCC, "Broadband Adoption and Use In America," released February 23, 2010, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296442A1.pdf>, accessed on April 10, 2010.
[153] Ibid.
[154] FCC, "Broadband Adoption and Use In America," released February 23, 2010, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-296442A1.pdf>, accessed on April 10, 2010.

b. Broadband Speeds

The NBP emphasizes increasing the speed of broadband services available to Americans. FCC Chairman Julius Genachowski has set a goal to reach 100 million households with 100 Mbps download speeds by the year 2020. Google has pledged to run fiber to homes in selected communities and will provide possible speeds of 1 Gbps.[155] Research has shown, however, that realized broadband speeds are often as much as 50-80 percent lower than what are advertised. The U.S. ranks eighteenth among developed nations in average measured connection speeds.[156]

A report prepared for the FCC by the Columbia Institute for Tele-Information predicts that by 2014, as many as 90 percent of homes in the U.S. will have access to wireline broadband with an advertised download speed of at least 90 Mbps.[157] The report also projects that wireless broadband will be available at advertised speeds as high as 12 Mbps to 95 percent of the population by 2013. A third option, satellite broadband, is also making strides technologically. Several new satellites will be launched in 2011 and 2012 and will be capable of providing broadband at 2-10 Mbps. Currently, major telecommunications companies are offering DSL ranging from 3-50 Mbps. The majority of cable providers that have converted to DOCSIS (Data Over Cable Service Interface Specification) 3.0 are capable of providing downstream speeds at or above 50 Mbps, with several companies performing trials in excess of 100 Mbps.[158]

2. Florida Broadband Trends

Florida has already benefited from the first round of BTOP and BIP broadband stimulus disbursements. Currently, the state has received approximately $39.2 million in federal awards for the improvement of broadband adoption and infrastructure. Just over $30 million has gone to the North Florida Broadband Authority (NFBA). The NFBA plans to provide high-speed broadband services to underserved areas in 14 north central Florida counties and will connect over 300 community anchor institutions at speeds ranging from 10 Mbps to 1 Gbps. Level 3 EON, LLC, an Internet backbone carrier operating throughout the state of Florida, also received $2 million for improving infrastructure throughout the state, impacting approximately 180,000 households, 12,300 businesses, and 100 community anchor institutions. Miami-Dade County Public Schools received $3.5 million to promote broadband adoption among low-income middle school students and their families.[159]

The Florida DMS was awarded a federal stimulus grant through NTIA for state broadband mapping and for state broadband data development planning (SBDD). The total cost of the 5-year DMS project is estimated at $7.1 million with a proposed $4.9 million to be funded by grants. DMS has received a total of $2.5 million for the first 2 years. NTIA will disburse

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[155] M. G. Siegler, "Help Us Google, You're Our Only Broadband Hope," *The Washington Post*, March 21, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/21/AR2010032103679.html>, accessed on April 14, 2010.
[156] David Lazarus, "'Up to' claims for Internet connection speeds next to worthless," *Los Angeles Times*, February 26, 2010, <http://articles.latimes.com/2010/feb/26/business/la-fi-lazarus26-2010feb26> accessed on April 14, 2010.
[157] Robert Atkinson and Ivy Schultz, "Broadband in America," Columbia Institute for Tele-Information, New York, NY, November 11, 2009, pp. 7-17.
[158] Ibid.
[159] Broadband USA, <www.broadbandusa.gov>, accessed on April 19, 2010.

funding for the remaining three years by September 2010. DMS has hired Connected Nation to create a map detailing broadband availability throughout the state and has named the program Connect Florida.[160] The award for SBDD of $500,000 was included in the first disbursement and can be used over a 5-year grant window. The focus of the planning grant is to research and analyze how government in Florida is using, procuring, and providing broadband services to determine if there are options to optimize broadband investments.[161]

In the spring of 2010 the Connect Florida program released the results of a survey on broadband adoption and use with Florida specific data.[162] The survey of 1,200 randomly selected participants revealed that 81 percent of Florida residents have a home computer, and 67 percent access broadband from their home. The majority of survey respondents who were without a computer said that they felt that they did not need one, or were unaware of why they needed one. Only 5 percent of survey respondents claimed that broadband was unavailable at their residences, and 3.8 percent of Florida households do not have terrestrial fixed broadband access. The survey also discovered that 39 percent of Florida residents use their broadband connection to contact state government online.[163]

The latest FCC High-Speed Services for Internet Access report includes state-by-state data as of December 31, 2008. The following highlights pertain to broadband subscribership in Florida:

- 6.7 million total high speed Internet connections are in the state of Florida, including:
    - 247,000 fiber connections
    - 2.8 million cable connections
    - 2 million DSL connections
    - 1.5 million wireless connections
- More than half of those connections are at download speeds of 3 Mbps or greater.
    - Less than 10 percent of those connections are greater than or equal to 10 Mbps.
- 93 providers of high-speed Internet access are in Florida, including 44 DSL providers, 19 cable providers, 31 fiber providers, and 6 mobile wireless providers.[164]
- The residential broadband subscribership percentage in Florida was 63 percent, which is 4 percent below the current national average.[165]

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[160] Connect Florida, <http://www.connect-florida.org/>, accessed on April 19, 2010.
[161] Department of Management Services, Broadband Initiative (ARRA), <http://dms.myflorida.com/suncom/broadband_initiative_arra>, accessed on May 3, 2010.
[162] Connect Florida Residential Technology Assessment Results, March-April 2010.
[163] Ibid.
[164] The sum of the individual parts exceeds the total because of overlap of service offerings.
[165] FCC, "High-Speed Services for Internet Access: Status as of December 31, 2008," Released February 2010, <http://www.fcc.gov/Daily_Releases/Daily_Business/2010/db0212/DOC-296239A1.pdf>, accessed April 19, 2010.

3. Broadband Technology

a. Fiber Optics

The only major U.S. telephone company deploying fiber all the way to the home is Verizon, and its deployment of FiOS-related infrastructure is nearing completion. The roll out of FiOS services will now be extended predominantly to areas where video franchise agreements have been secured. Some franchise negotiations, however, are still taking place in some smaller communities in New York, Massachusetts, and Pennsylvania. Verizon provides FTTH television and Internet access services in 16 states, and the goal is to reach 18 million households by the end of 2010. Verizon reported 3.32 million Internet access subscribers as of year-end 2009. The total estimated cost for deployment of FiOS made in 2007 was $23 billion, since connecting fiber to a home can cost over $1,000. FTTH is the only technology with the potential to provide customers with speeds approaching what are available in countries such as Japan and South Korea.[166]

Although Verizon is the only major carrier installing FTTH, several small, independent telecommunications carriers also deploy FTTH technology. These companies serve over 1.4 million homes with "gigabit-enabled, all fiber service."[167] As many as 750 providers are replacing copper lines with FTTH connections in North America to remain competitive against the larger cable and telephone companies. More than 65 percent of small, independent telecommunications companies surveyed by the FTTH Council said that they were "very likely" to make the upgrade to FTTH.[168]

As of March 2009, a total of 14.9 million homes in the U.S. had access to some type of fiber-based connection. AT&T has unveiled plans to make its fiber offering available to 30 million living units with its fiber offering, called U-verse, by 2011.[169] Google has announced plans to enter the fiber business as well, and expects to deploy fiber to somewhere between 50,000 and 500,000 homes in communities that are selected through an application process.[170]

b. DSL

Since the length of the copper wire limits the speed of DSL connections, companies have been utilizing a hybrid of fiber and copper wires to bolster their DSL speeds for many years. As a result, discussing DSL and fiber deployments as entirely separate technologies is difficult. As of the second quarter of 2009, Verizon had 6 million copper-fed DSL connections in the U.S.

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[166] Associated Press, "Verizon Winds Down Expensive FiOS Expansion," March 26, 2010, Technology Review, <http://www.technologyreview.com/wire/24892/?a=f>, accessed on April 20, 2010.
[167] Andrew Burger, "FTTH Now Available to 16% of North American Homes," April 14, 2010, Telecompetitor, <http://www.telecompetitor.com/ftth-now-available-to-16-of-north-american-homes-small-carriers-quite-active>, accessed April 20, 2010.
[168] Ibid.
[169] Robert Atkinson and Ivy Schultz, "Broadband in America," Columbia Institute for Tele-Information, New York, NY, November 11, 2009, pp. 7-17.
[170] Bernie Arnason, "Google Building Its Own FTTH Network, Wants Community Volunteers," February 10, 2010, Telecompetitor, <http://www.telecompetitor.com/google-building-its-own-ftth-network-wants-community-volunteers/>, accessed April 19, 2010.

compared to AT&T's 14 million, and Qwest's 3 million. DSL does have the benefit of being marginally less expensive than cable, wireless, or fiber-based broadband offerings in most cases. Verizon, AT&T, Qwest, and other carriers offer low-speed tiers of DSL between $20 and $30 per month, whereas low-cost plans offered by several of the largest cable providers using hybrid fiber-coaxial cable are more likely to be in the $30 to $60 range.[171]

AT&T has announced it plans to continue expanding its DSL service areas with traditional copper-fed DSL service. It expects to pass over 16 million homes by the end of 2010 with speeds reaching up to 6 Mbps. As of the first quarter of 2009, Qwest was providing DSL connections to 2.9 million subscribers, including customers in some of the most "rural, rugged, and least populated areas in the continental United States." Verizon is divesting a large portion of its DSL lines, and reported a significant decrease in DSL-based high-speed Internet connections in the second quarter of 2009. The total number of Verizon's DSL subscribers is projected to continue declining over the next five years, as the company continues to focus more on its fiber broadband offering. Verizon's DSL broadband has download speeds of up to 7 Mbps and is available in 24 states and the District of Columbia.[172] Windstream, a smaller telecommunications provider, will continue to provide its DSL service to just over 1 million customers in 16 states. Windstream's DSL broadband service ranges from 3 to 12 Mbps in most places, but 25 Mbps service is available in Lexington, Kentucky, where Windstream is currently in the process of testing 50 Mbps service.[173]

c. Cable Broadband

Most of the large cable companies are converting to DOCSIS 3.0, which will provide subscribers with potential download speeds in excess of 50 Mbps. Some cable providers have begun advertising download speeds of 100 Mbps or higher. Comcast, the nation's largest cable company, has a top upstream speed offering of 10 Mbps and is currently testing services capable of up to 120 Mbps upstream. The company anticipates being finished with the transition to DOCSIS 3.0 before the end of 2010. The cost to companies that upgrade is between $10 to $15 per customer. Analysts have reported the expectation that nearly all of the 92 percent of homes passed by cable will have access to the new format by 2013. Cable broadband service is currently used by 37 percent of U.S. households.[174]

d. Wireless

A major cornerstone of the FCC's NBP is the viability of wireless broadband as a major competitor with DSL, fiber-based, and cable broadband service. However, some analysts believe wireless broadband is more likely to be complementary to wired broadband, rather than a competitive substitute.[175] Only about 4 percent of the U.S. population currently has the choice

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[171] Robert Atkinson and Ivy Schultz, "Broadband in America," Columbia Institute for Tele-Information, New York, NY, November 11, 2009, pp. 17-19.
[172] Verizon High Speed Internet, <http://www22.verizon.com/Residential/HighSpeedInternet/Plans/Plans.htm>, accessed June 10, 2010.
[173] Robert Atkinson and Ivy Schultz, "Broadband in America," Columbia Institute for Tele-Information, New York, NY, November 11, 2009, pp. A1-A43.
[174] Ibid, pp. 19-22.
[175] Ibid, pp. 20-34.

between 3 or more broadband providers,[176] but analysts predict that by the end of 2013, 53 percent of the U.S. population over the age of 14 will use either a 3G or 4G wireless service.[177]

Sprint Nextel uses WiMAX (Worldwide Interoperability for Microwave Access) technology that is capable of average download speeds comparable to residential cable and DSL connections.[178] As one of the companies pioneering 4G wireless in 2008, Sprint Nextel has deployed its 4G WiMAX network in many major metropolitan areas and will continue to do so throughout 2010. Clearwire, which merged its network with Sprint Nextel's in late 2008, also uses 4G WiMAX technology and is providing service in 27 markets with speeds between 3 and 6 Mbps downstream. WiMAX, when used as a stand alone broadband service for the home, is priced competitively with fiber and cable offerings, averaging $39 per month.[179]

AT&T utilizes a technology similar to WiMAX for its Wi-Fi hotspots, which have been gaining popularity. In 2009, there were 85.5 million Wi-Fi connections nationwide, the overwhelming majority (73 percent in the fourth quarter of 2009) of which were made by Wi-Fi enabled smartphones and integrated devices. Wi-Fi service is available in more than 20,000 hotspots.[180] Throughout 2009 and 2010, AT&T will be completing upgrades to its 3G network in order to make increased speeds of approximately 7.2 Mbps available to 80 million wireless customers. In 2011, AT&T will begin deploying Long Term Evolution (LTE) which will eventually be capable of speeds in excess of 20 Mbps.[181]

Verizon Wireless has announced plans to deploy LTE in 25 to 30 markets by the end of 2010, and predicts that LTE 4G service will be available to its entire coverage area by 2013. Verizon Wireless is currently in talks with local rural carriers to provide access to its 4G wireless spectrum. If an agreement is reached, local rural carriers would lease licensed spectrum from Verizon Wireless, and sell the 4G services to their customers. If successful in its negotiations, Verizon would be able to cover more of the U.S. with its LTE technology.[182] The 4G network will be capable of speeds ranging from 4 to 12 Mbps. Because of the way wireless broadband spectrum is shared, however, it is unlikely that those speeds will be attainable during peak hours or when systems are overloaded with too many subscribers using bandwidth-intensive applications. The monthly cost to consumers varies between $10 to $30 per month for access to mobile data. This fee is added on top of a subscriber's regular wireless phone bill.

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[176] Marguerite Reardon, "Can 4G Wireless Take on Traditional Broadband?" CNN.com, March 23, 2010, <http://www.cnn.com/2010/TECH/03/23/cnet.4g.wireless.clearwire/index.html>, accessed on March 24, 2010.
[177] Robert Atkinson and Ivy Schultz, "Broadband in America," Columbia Institute for Tele-Information, New York, NY, November 11, 2009, pp. 20-34.
[178] Robert Atkinson and Ivy Schultz, "Broadband in America," Columbia Institute for Tele-Information, New York, NY, November 11, 2009, pp. A1-A43.
[179] Ibid.
[180] "AT&T Wi-Fi Handles More Than 85 Million Total Connections in 2009, More Than Four Times 2008," AT&T Press Release, January 25, 2010, <http://www/att/com/gen/pressroom?pid=4800&cdvn=news&newsarticleid=30433>, accessed on March 15, 2010.
[181] Robert Atkinson and Ivy Schultz, "Broadband in America," Columbia Institute for Tele-Information, New York, NY, November 11, 2009, pp. A1-A43.
[182] Naraj Sheth, "Verizon in Talks With Rural Firms," *The Wall Street Journal*, May 13, 2010, <http://online.wsj.com/article/SB10001424052748703339304575240200909761376.html?mod=WSJ_Tech_LEFTTopNews#printMode>, accessed on June 10, 2010.

e. Satellite

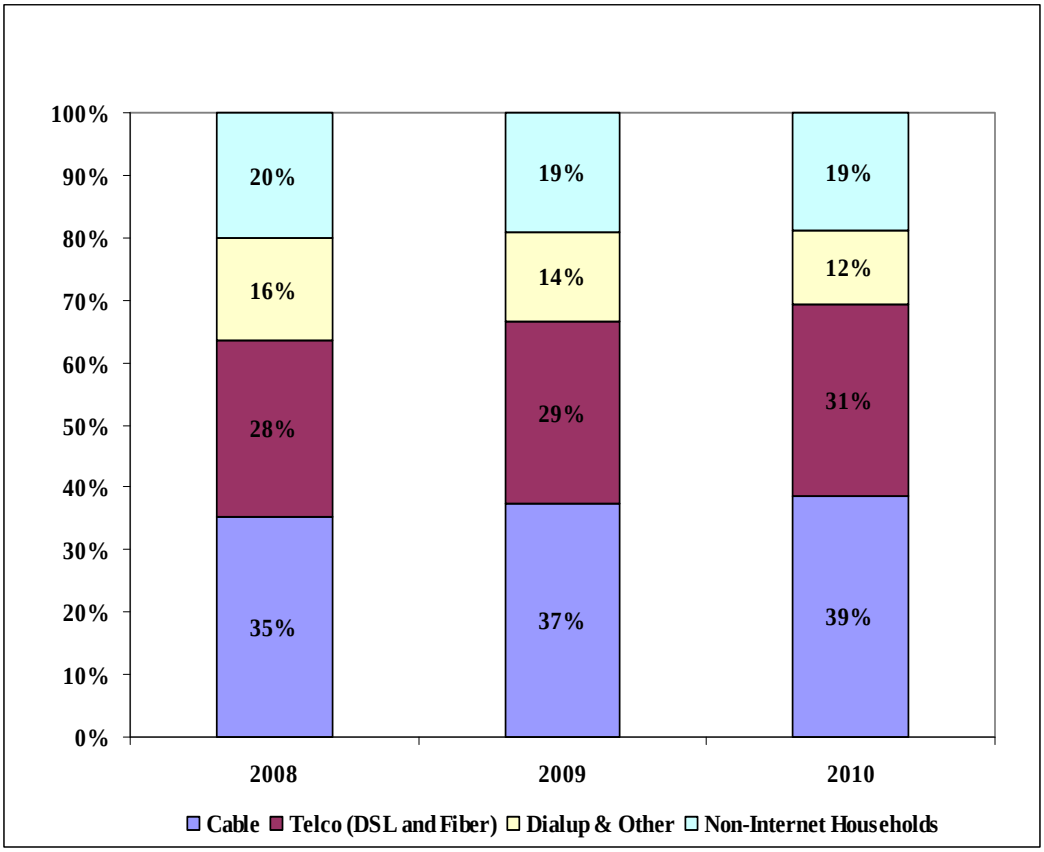
Satellite technology remains the most feasible way to provide broadband Internet access services to the most remote and difficult-to-serve locations. Traditionally, there are some drawbacks to satellite broadband, including cost, speed, and latency issues. However, in 2011, several new satellites will be launched that may change that reputation permanently, and put satellite broadband on more equal footing with traditional wireline broadband service. These new satellites will have 100 Gbps of capacity and allow broadband subscribers to achieve speeds from 2-10 Mbps. ViaSat's ViaSat-1 satellite will have the capacity to serve 2 million customers across the U.S. Hughes has announced plans to launch a similar satellite in the first quarter of 2012 that it claims will provide subscribers with download speeds from 5 to 25 Mbps and have the capacity to serve a similar number of subscribers as the ViaSat satellite. These new satellites also have the potential to reduce the cost of satellite data transmission.[183]

There are only a handful of companies currently offering satellite broadband, including EchoStar, Gilat, StarBand, Hughes, ViaSat, and WildBlue. All of these require the customer to purchase a satellite dish at prices ranging from $150-$300. Current monthly subscription rates vary from $50 to $100 with speeds from 512 kbps to 1.5 Mbps.[184]

[183] Robert Atkinson and Ivy Schultz, "Broadband in America," Columbia Institute for Tele-Information, New York, NY, November 11, 2009, pp. 20-34.
[184] Robert Atkinson and Ivy Schultz, "Broadband in America," Columbia Institute for Tele-Information, New York, NY, November 11, 2009, pp. A1-A43.

Figure 4-8 breaks down the percentages of commonly used broadband technology types. It is clear that while the overall numbers of broadband subscribers increased each year in all groups, cable broadband continues to dominate the industry by nearly 10 percent, even when fiber broadband subscribers are grouped together with traditional DSL broadband service. It will be interesting to see if the next few years bring a dramatic decrease in non Internet households as government initiatives come into effect and technology improves.

Figure 4-8. Internet Subscription by Technology



Source: Columbia Institute of Tele-Information (November 2009)

Chapter V. Discussion of Chapter 364, F.S., Requirements

A. Introduction

Section 364.386(1), F.S., requires the Commission to address the following six points in its evaluation of the status of local wireline telecommunications competition in Florida:

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

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

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

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

5. What additional services, if any, should be included in the definition of basic local telecommunications services, taking into account advances in technology and market demand?

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

The FPSC sent data requests to all CLECs and ILECs certificated as of February 16, 2010, designed to address these and other issues. The request included a qualitative questionnaire, which sought information on various service offerings of ILECs and CLECs. Information was requested relating to Florida-specific capital investments, barriers to entry, information on intermodal competition, and other comments. There was also space for general comments on the status of competition in Florida. This chapter addresses the statutory questions and summarizes the responses provided by CLECs and ILECs to the qualitative questions.

The Commission recognizes that for many consumers, wireless and VoIP services are substitutes for traditional wireline services. Only wireline telecommunications providers are under the regulatory authority of the Commission. The Commission is, therefore, unable to gather certain types of information from providers of nonjurisdictional services since wireless carriers and providers of VoIP service are not obligated to provide data. A number of VoIP providers have voluntarily provided line counts. With this partial information, the Commission's ability to present a complete analysis of the required statutory issues is limited. Through sources available in the public domain, the FPSC is able to reach what it believes are reasonable conclusions regarding wireless and VoIP service providers.

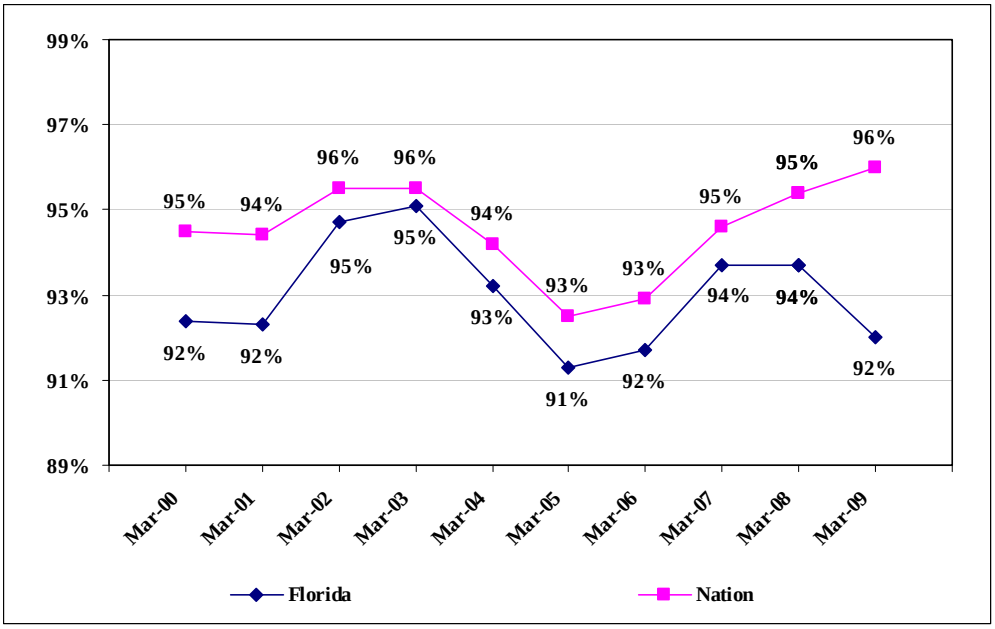
B. Statutory Issues

1. The impact of competition on the availability of universal service

Universal service refers to the longstanding policy that a specified set of telecommunications services should be available to all customers at affordable rates. Section 364.025, F.S., provides a number of guidelines designed to maintain universal service objectives with the introduction of competition in the local exchange market. However, the carrier-of-last-resort obligation, a traditional element of universal service, sunset as of January 1, 2009.

According to the FCC, 93 percent of Florida's households had access to voice communications service in the home as of November 2009.[185] Figure 5-1 shows the annual percentage of telephone penetration as of March of each year since 2001, and reflects a drop of 2 percent in 2009 from the 2008 level. Income is a significant factor in predicting telephone subscribership, as shown in Figure 5-2. Eighty-three percent of Florida households with total incomes of less than $10,000 have voice communication service, compared to 96 percent of households with incomes of more than $40,000. Florida penetration rates in the lowest income group dropped to 84 percent in 2009 from 89 percent in 2008. This decrease is probably reflective of a continuing weak economy.

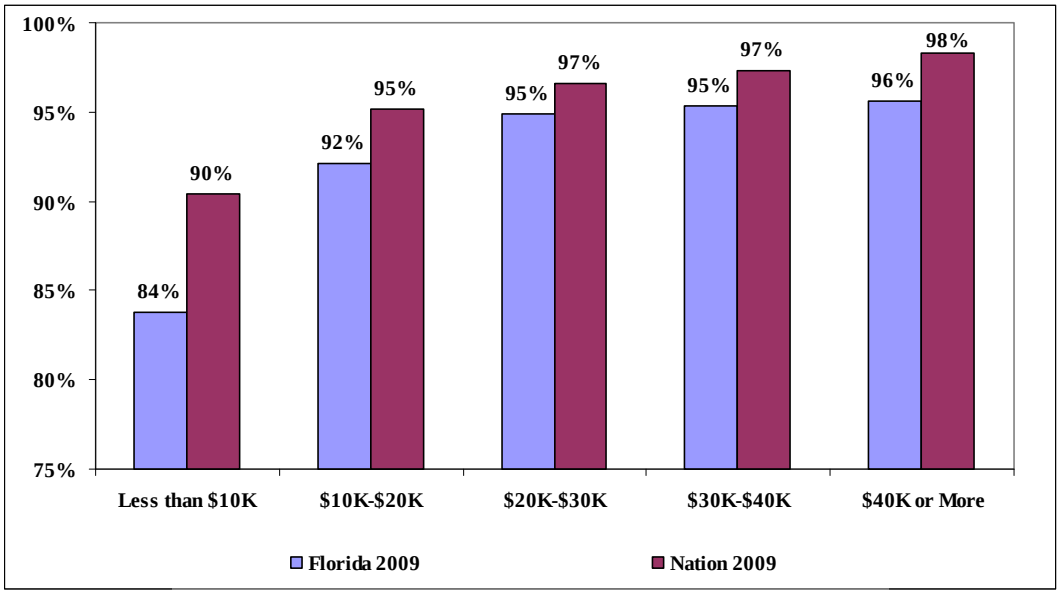
Figure 5-1. Telephone Service Penetration: Florida vs. Nation



Source: FCC, Telephone Penetration by Income by State

[185] FCC, "Telephone Penetration by Income by State (Data through March 2009)," Released May 2010, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-297986A1.pdf>, accessed May 12, 2010.

Figure 5-2. 2009 Telephone Penetration by Income: Florida vs. Nation



Source: FCC, Telephone Penetration by Income by State

Conclusion: FCC telephone subscribership data for Florida reflected a decline from 95 percent in 2002 to 91 percent in 2005. This decline was followed by an increase in Florida telephone subscribership which increased to 94 percent in 2007 and 2008. As of March 2009, subscribership has declined by 2 percentage points to 92 percent. This decline is likely related to the high rate of unemployment in the state with the recent economic downturn. The FPSC concludes that local exchange competition has had little, if any, impact on the availability of universal service. Moreover, based on data presented in Chapters III and IV, competition for residential customers appears to be greater and more far reaching than in previous years.

2. The ability of competitive providers to make equivalent service available

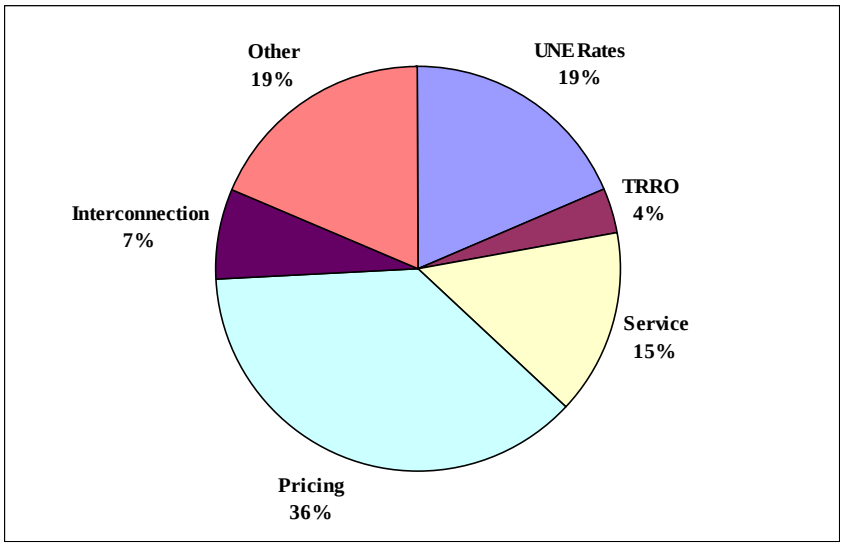
The size of a particular market and subscriber density are key factors affecting a carrier's market entry decision. As a result, more competitive carriers are offering service in urban areas than in rural areas. Provisions in the 1996 Act require that ILECs provide UNEs to requesting carriers. The 1996 Act allows rural ILECs to be exempted from providing UNEs or interconnection under certain circumstances.[186] AT&T, Verizon, and CenturyLink are the only three ILECs in Florida that are not considered rural, and therefore are not exempt. Since UNEs and resale of an ILEC's services at a wholesale discount are presently not required in Florida's rural ILEC service areas, wireline CLECs considering entry in a rural area may face higher costs as compared to entry in a nonrural area.

[186] Section 251(f) of the Federal Communications Act of 1934, as amended.

a. Perceived Barriers to Competition

To evaluate the ability of competitive wireline carriers to provide service, the Commission surveyed all certificated CLECs. CLECs were asked to discuss any perceived barriers to competition in Florida and describe any significant obstacles that might impede the growth of local competition in the state. Twenty-seven CLECs reported barriers to competition; the primary issues identified by the respondents are shown in Figure 5-3.

Figure 5-3. Barriers to Competition Reported by CLECs



Source: Responses to 2010 FPSC data requests

Pricing. The most frequently reported barrier to entry reported by CLECs was pricing. CLECs reported that ILECs were offering promotional rates to the CLECs' retail customers that were below wholesale rates available to CLECs.

UNE Rates. High pricing of UNEs was the second most commonly reported type of barrier to entry. CLECs alleged that unjust fees and UNE rates made competing with ILECs economically unfeasible.

Service. Several CLECs reported service problems as a barrier to entry. This category includes allegations of poor service from ILECs to CLECs and to CLECs' customers. Issues reported include ILEC delays in processing orders and resolving service issues.

Triennial Review Remand Order (TRRO). In 2005, the FCC released its TRRO which, among other things, established a transition period after which the ILECs would no longer be required to unbundle local switching at wholesale prices based on the total element long-run incremental cost methodology. This decision had the effect of increasing the price and availability of certain UNEs to CLECs, though comparable facilities were typically offered at market rates. Some CLECs continue to identify the high cost of interconnection directly

associated with the TRRO as a barrier. CLEC allegations include lack of access to certain kinds of UNE lines, lack of ILEC cooperation in negotiating commercial agreements, and increased costs resulting from the TRRO.

Interconnection Agreements. A few CLECs listed interconnection agreements as a barrier to entry. CLEC allegations include ILEC refusal to negotiate and refusal by ILECs to interconnect with CLEC networks on fair, reasonable, and nondiscriminatory terms.

Other. CLECs identified other issues as barriers that do not necessarily fit into one of the major categories. These issues include: the variety of fees charged to the CLEC at the initiation of CLEC service at a customer's premises; competition from unregulated cable companies; ILEC market power; excessive paperwork; and the existence of exclusive contracts between developers and other communications companies.

b. Competitive Services

The Commission asked the CLECs to report what services they offer. The 128 CLECs providing local service reported offering:

- Bundles including services other than local voice (55 CLECs)
- VoIP (47 CLECs)
- Prepaid only (16 CLECs)
- Broadband Internet access - Residential (31 CLECs)
- Fiber to end users (10 CLECs)
- Video Service (52 CLECs)

c. CLEC Investment

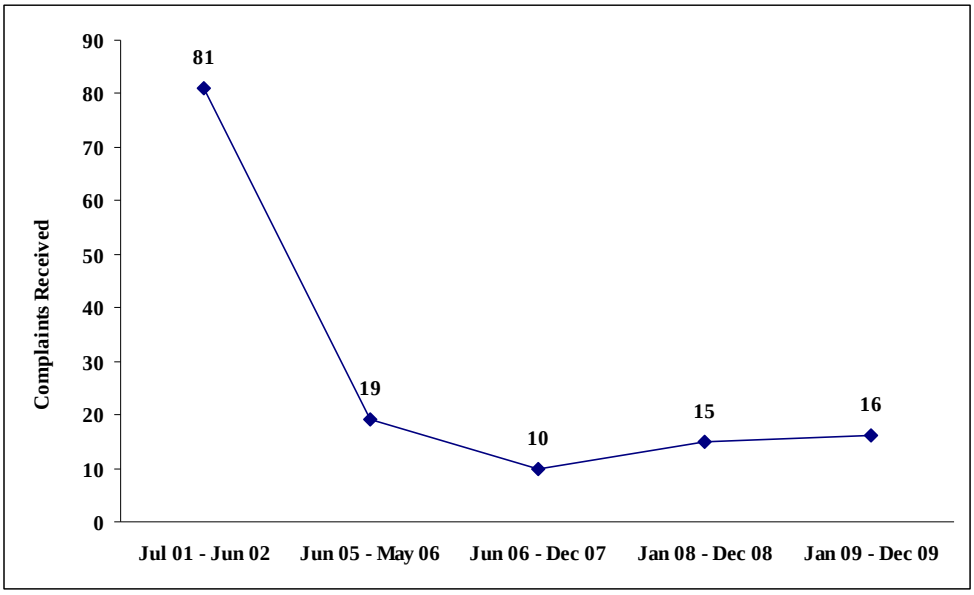
The Commission also asked the CLECs to report how much money they had invested in their networks that directly serve Florida's local service customers. Ranges of dollars were provided on the CLEC questionnaire so that the CLECs did not need to report a specific dollar amount. For this year's report, 133 CLECs responded to this question, compared to 120 in the previous year. Of the responses provided:

- 62 CLECs reported zero investment
- 50 CLECs reported investing $1-$249,999
- 6 CLECs reported investing $250,000-$999,999
- 15 CLECs reported investing $1 million-$10 million

d. CLEC Complaints Against ILECs

Pursuant to Section 364.161(4), F.S., the Commission handles CLEC complaints filed against ILECs. As illustrated in Figure 5-4, the number of complaints has generally declined during the past few years; however, 16 complaints were filed from January 1, 2009, to December 31, 2009. All of the complaints, generally focused on service-related issues, were resolved in 2009. The majority of the complaints (12) were filed by the same CLEC, and a list of complaints is found in Appendix D.

Figure 5-4. CLEC Complaints Filed Against ILECs



Source: FPSC Consumer Activity Tracking System (July 2001–December 2009)

The Commission received 91 negotiated agreements and 1 request for arbitration between January 1, 2009, and December 31, 2009, significantly fewer than the 120 negotiated agreements the commission received the previous year. Since June 1996, the Commission has reviewed and approved 4,458 negotiated interconnection agreements. These statistics demonstrate the general ability of competitive providers to enter into negotiated agreements with incumbent carriers.

e. Comments by Incumbents

ILECs were also asked to provide any comments, suggestions, information, reports, or studies that they believe to be relevant this report, including intermodal competition. Of the ten ILECs, one filed comments. TDS Telecom/Quincy (TDS) stated:

> The market area in which TDS Telecom/Quincy is considered rural, however it is highly competitive. Residential and business customers in this very small market area have access to any one of a number of wireless providers in addition to three facility-based wireline competitors. Of the competitors in this market, TDS

Telecom is the only company that is regulated by the State of Florida, even though one of the facility-based carriers in this market is the third largest telephone company in the country.

Conclusion: Wireless and VoIP services have become a significant portion of the voice communications market. Historically, the Commission has not addressed barriers to entry that may be impacting wireless and VoIP providers. These intermodal competitors are providing competitive alternatives to both residential and business subscribers, as evidenced by the fact that intermodal subscribership has increased while wireline subscribership has decreased. In addition, CLECs investing in facilities in Florida are providing a range of service options, and do not appear to have faced insurmountable obstacles relating to interconnection issues. While some positive growth in the number of CLECs offering service in Florida has occurred since 2007, the number of residential access lines served by CLECs declined considerably, from 730,000 access lines in 2004 to fewer than 132,000 in 2008. In 2009, CLECs experienced a slight rebound, increasing the number of residential lines served to 174,467. While some CLECs have been able to provide functionally equivalent service, intermodal competition has made competing in this market more difficult.

3. The ability of customers to obtain equivalent services at comparable rates, terms, and conditions

Customers may obtain functionally equivalent services via wireline telephony, wireless telephony, or VoIP. The primary focus of this report is the provision of wireline telecommunications by ILECs and CLECs, the companies subject to Commission jurisdiction.

As of December 31, 2009, 128 CLECs were providing local (voice) service in Florida in some capacity, compared to 139 as of December 31, 2008. Appendix B lists the responding CLECs and the methods by which each CLEC provides service. CLECs can offer service through resale of an ILEC's or a CLEC's wholesale services, by using its own facilities, by leasing UNEs from an ILEC, or through a combination of methods, including VoIP.

As of December 31, 2009, of the 276 exchanges in Florida, 15 exchanges have no CLECs offering service. Twelve exchanges had no CLEC offering service as of December 31, 2008.[187] Table 5-1 lists selected exchanges, the ILEC serving that exchange, the total number of CLEC lines in that exchange, and the total number of CLECs offering service in that exchange as of December 2008 and 2009. These exchanges were arbitrarily selected to reflect a range based on the number of lines. The number of CLECs offering services decreased in 21 of the 23 exchanges represented, but CLEC access lines decreased in only 12 of the 23 exchanges. The numbers show that CLECs are more likely to target areas with large concentrations of customers.

Table 5-1. CLEC Providers by Florida Exchange

Exchange	ILEC	Total Number of CLEC Access Lines		Number of CLECs Offering Services	
		2008	2009	2008	2009
Jasper	Windstream	33	14	3	2
Callahan	Windstream	63	82	6	4
Quincy	TDS Telecom	271	195	2	1
Baker	CenturyLink	47	40	7	8
Crawfordville	CenturyLink	170	148	15	16
Crestview	CenturyLink	891	879	19	16
Leesburg	CenturyLink	1,124	1,098	29	23
Ocala	CenturyLink	8,823	7,259	32	25
Tallahassee	CenturyLink	12,097	8,764	41	34
Myakka	Verizon	35	51	8	6
Mulberry	Verizon	395	428	19	15
Bartow	Verizon	935	980	20	19
Zephyrhills	Verizon	1,241	1,271	23	19
Lakeland	Verizon	10,230	9,446	33	25
St. Petersburg	Verizon	26,845	29,142	40	34
Tampa	Verizon	102,547	102,776	48	47
Jay	AT&T	58	67	19	15
Chipley	AT&T	246	276	28	21
Gulf Breeze	AT&T	830	805	25	23
Titusville	AT&T	1,784	1,523	42	37
Gainesville	AT&T	8,281	8,915	53	48
Orlando	AT&T	70,316	66,825	77	68
Miami	AT&T	121,783	137,250	78	77

Source: Responses to FPSC data requests (2009-2010)

[187] The 15 exchanges without CLEC service are Bristol, Carrabelle, Dowling Park, East Point, Florida Sheriff's Boy Ranch, Gretna, Hosford, Keaton Beach, Kingsley Lake, Luraville, Orange Springs, Raiford, The Beaches, Wellborn, and Wewahitchka.

Customers must also be able to obtain functionally equivalent services at rates comparable to that of the ILEC in order for meaningful CLEC competition to occur. Table 5-2 shows that customers have access to services at a variety of rates. Strategies may include overall discounts and matching an ILEC's price. Other CLECs have adopted a strategy of bundling basic local service with discounted toll service and/or vertical features (call waiting, caller ID, conference calling, etc.) to compete with ILECs.

Table 5-2. Local Rates for Selected Florida CLECs and ILECs

CLEC Rates			ILEC Rates		
	Residential	**Business**		**Residential**	**Business**
Access Point	$6.30-$9.19	$17.09-$25.12	AT&T	$12.45-$13.68	$34.89-$36.75
American Fiber	$10.75	$29.25	AT&T	$12.45-$13.68	$34.89-$36.75
	$12	$30	Verizon	$16.48	$33.80
	$11.50	$25.25	CenturyLink	$16.40-$17.00	$24.00-$31.00
Knology	$11.75	$24.50-$29.50	AT&T	$12.45-$13.68	$34.89-$36.75
	$12.50	$28.75	Verizon	$16.48	$33.80
Orlando Telephone	$11.50	$25	Windstream	$9.49-$11.49	$23.75-$28.72

*Rates shown are for the lowest and highest rate groups for the most basic local service available. The purpose is to compare CLEC rates in various ILEC footprints.

Source: Tariffs and price lists filed with the FPSC as of May 2010

The Commission asked the ILECs and CLECs for information on their bundled service offerings, including whether they offered bundles, percentage of customers able to purchase bundles, the percentage of customers who purchased bundled services (take rate), and if they offered prepaid service. Of the 128 CLECs and 10 ILECs that were offering local telephone service, 54 CLECs and all 10 ILECs reported offering bundled services.

Prepaid telephone service is a pricing strategy offered by some CLECs to consumers with poor credit histories or to those previously disconnected due to repeated late payment or nonpayment. This service typically gives customers local calling and 911 access in exchange for a prepaid monthly fee, but typically the CLEC blocks long distance, 900 numbers, and directory assistance calls. CLEC price lists indicate that prices for prepaid service range from approximately $6.30 to $22.28 per month for residential customers, and from $17.09 to $30.00 per month for business customers. Telephone companies providing only prepaid telephone services account for 16 of the 128 CLECs providing local service in Florida.

Wireless and VoIP communications services are alternatives to wireline telecommunications services. The appeal of these alternatives is based on price as well as convenience and the availability of unique features. Although obtaining detailed information regarding the penetration levels of these services in Florida is difficult, as reported in Chapter IV, a growing number of Florida households are wireless-only or subscribe to VoIP service in lieu of wireline service. Wireless-only households have grown to about 25 percent of total households nationwide.[188] Florida's population of college students and seasonal residents may contribute to Florida's continued decline in wireline subscribership because they often fall into demographics with higher rates of wireless-only subscription.[189, 190] The increasing popularity of wireless and VoIP service also contributes to the fact that total residential access lines for Florida's ILECs have steadily declined since 2001.

Conclusion: Residential consumers in Florida are finding communications alternatives to wireline services offered by ILECs. CLECs, VoIP providers, and wireless providers are providing these alternatives. By the end of 2009, CLECs served 174,467 residential access lines. Ninety-five percent of exchanges in Florida have at least one CLEC offering residential service; however, fifteen exchanges have none. Customers subscribing to facilities-based VoIP services in Florida account for approximately 1.8 million residential access lines. Wireless-only households in Florida reached approximately 17 percent as of December 2007, and that number is likely to be higher now.[191] Consequently, the Commission concludes that Florida customers are able to obtain functionally equivalent services at comparable rates, terms, and conditions.

4. The impact of price regulation on the maintenance of affordable and reliable services

Prior to July 1, 2009, Section 364.051, F.S., provided that a price-cap regulated ILEC may adjust its basic local service revenues once in a 12-month period by an amount not to exceed the change in inflation less 1 percent. In contrast, the price increase for any nonbasic service category could not exceed 6 percent within a 12-month period, until there is another provider offering local telecommunications service in an exchange area. At that time, the prices for any nonbasic service category may be increased in an amount not to exceed 20 percent within a 12-month period. The 2009 Florida legislature passed legislation that changed the cap on the increase from 20 to 10 percent. In addition, the new law redefined basic service to include only single-line, flat-rate residential service without any additional features, either priced individually or as part of a combination of services (including unregulated services such as wireless or video

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[188] S.J. Blumberg, J.V. Luke, "Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December 2009," May 12, 2010, p. 1, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201005.pdf>, accessed on May 13, 2010.

[189] Florida Department of Education, "The Fact Book, Report for the Florida Community College System," 2008, p. 2, <http://www.fldoe.org/arm/cctcmis/pubs/factbook/fb2008/fb2008.pdf>, accessed on April 21, 2009. "Florida (FL): University and College Education System, Top Five Florida College and Universities by Student Enrollment Size," Educational Portal, <http://education-portal.com/articles/Florida_%28FL%29%3A_University_and_College_Education_System.html>, accessed on April 15, 2009.

[190] "Vulnerable and Hard-to-Reach Population Fact Sheet: Seasonal Residents," Nova Southeastern University, et. al, updated October 2006, <http://www.nova.edu/allhazards/forms/seasonal_res.pdf>, accessed on April 28, 2008.

[191] Ibid.

services). The new law became effective in July 2009.[192] The following ILECs filed notices of rate changes for basic and nonbasic exchange services between January 1, 2009, and December 31, 2009, pursuant to Section 364.051, F.S.:

- AT&T increased basic local rates by 0.95 percent, effective October 25, 2009. Nonbasic rates increased in the range of 0.00 percent to 6.89 percent among the revenue categories.

- CenturyLink increased basic local rates by 1.88 percent, effective April 1, 2009. Nonbasic rates increased in the range of 2.40 percent to 8.45 percent among the revenue categories.

- Indiantown Telephone Company (ITS) increased basic local rates by 1.36 percent, effective November 1, 2009. Nonbasic rates increased in the range of 3.22 percent to 6.00 percent among the revenue categories.

- Northeast Florida Telephone Company increased nonbasic rates 2.98 percent among the revenue categories.

- Verizon increased basic local rates by 0.92 percent, effective November 1, 2009. Nonbasic rates increased in the range of 0.08 percent to 5.07 percent among the revenue categories.

- Windstream increased nonbasic rates in the range of 1.15 percent to 5.60 percent among the revenue categories.

Conclusion: The FPSC believes these rate increases and price regulation, in general, have had a negligible impact on the overall affordability of telephone service.

5. Definition of basic local telecommunications services

The 2009 Florida Legislature modified the definition of basic local telecommunications service and the new law became effective July 1, 2009. The new definition is:

> "Basic local telecommunication service" means voice-grade, single-line, flat-rate residential local exchange service that provides dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multi-frequency dialing, and access to the following: emergency services such as "911," all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a local exchange company, the term includes any extended area service routes, and extended calling service in existence or ordered by the Commission on or before July 1, 1995.

[192] The 2009 Florida Legislature amended Section 364.051, F.S., which changed the terms of price regulation for nonbasic services. However, the report text accurately reflects pricing conditions in effect for calendar year 2009.

The new definition eliminates multi-line residential and single-line business subscribers from the definition.

According to Section 364.337(2), F.S., if a CLEC offers basic local telecommunications service, it must include access to operator services, "911" services at a level equivalent to that of the ILEC serving that area, and relay services for the hearing impaired. CLECs must also provide a flat-rate pricing option for basic local telecommunications. The statute states that "mandatory measured service for basic local telecommunications services shall not be imposed."

The FCC has required providers of wireless and VoIP services that interconnect to the public switched telecommunications network to provide E911 service. The FCC has an ongoing proceeding to consider additional regulatory requirements for VoIP providers.[193] While these services provide the same or similar functionality to traditional wireline service, they do not currently fall within the statutory definition of basic local telecommunications service. Commercial mobile radio service (CMRS) or wireless providers are expressly exempt from the statutory definition of a telecommunications company, and VoIP is expressly excluded from the statutory definition of service.

Conclusion: No evidence suggests a need to recommend additions or deletions to the definition of basic local service.

6. Other information and recommendations that may be in the public interest

The FPSC has not set retail rates for incumbent telecommunications carriers electing price cap regulation since state law permitted that option in 1995. In early 2009, the Commission acknowledged the election of Frontier Communications of the South, LLC, (Frontier) to be subject to price cap regulation pursuant to Section 364.015, F.S. Frontier was the last remaining Florida ILEC subject to rate-of-return regulation.

The bulk of regulatory oversight under the jurisdiction of the Commission relates to wholesale issues between carriers, Lifeline, numbering issues, regulatory compliance, service quality jurisdiction over basic local telecommunications service customers, and consumer complaints for service and billing. In 2009, however, the Florida Legislature passed changes to Florida Statutes that changed the definition of basic local service. The new definition narrowly defines basic local telecommunications service as single-line, flat-rate residential service without the addition of nonbasic or unregulated services, either priced individually or as part of a combination of services (including unregulated services, such as wireless or video). Service quality jurisdiction is now limited to basic local service customers.

Entrepreneurs are finding new ways to employ technology, especially IP technology, that creates value for the communications industry that is not necessarily end-user related. Alternative communications technologies are increasingly juxtaposing regulated carriers with the unregulated entities such as VoIP, wireless carriers, and other types of service providers. Some of these companies have engaged in activities not heretofore addressed by regulatory bodies and

[193] FCC, WC Docket No. 04-36, IP-Enabled Services.

the Commission has often found itself facing issues it has not previously considered. Most of these issues arise in interconnection arrangements between service providers.

It is premature to make a recommendation regarding any needed statutory changes but the Commission will continue to track workload that appears to be a result of new ways of using technology and for which statutory authority is ambiguous.

Conclusion: There are no recommendations at this time.

Chapter VI. State Activities

A. ILEC Service Quality

ILECs are required to adhere to service quality standards as prescribed in the Commission's rules when providing basic local telecommunications service.[194] The Commission evaluates the service quality using a sample of the ILECs' exchanges throughout the state annually for large ILECs, but no more than once in four years for small ILECs.[195] The service quality standards are expressed as a percentage of compliance. For example, Rule 25-4.070,[196] Customer Trouble Reports, states that 95 percent of all out-of-service conditions reported by the individual subscriber shall be restored within 24 hours. In exchanges containing more than 50,000 access lines, the out-of-service percentages are reported monthly; otherwise, the ILEC aggregates the results and reports quarterly.[197]

Another standard found within the same rule involves troubles that are service-affecting. Service-affecting troubles are of lesser severity than out-of-service conditions, and typically relate to telephone service features such as voicemail, call forwarding, or noise on the line. In service-affecting conditions, the ILECs are required to clear 95 percent of the troubles within 72 hours. The standard allows the ILECs to aggregate the results on a quarterly basis when the exchange has fewer than 50,000 lines; otherwise, service-affecting troubles are reported monthly.

Revisions to Chapter 364, F.S., effective July 1, 2009, redefined basic and non-basic local telecommunications service. Any combination of basic service along with a non-basic or an unregulated service is considered non-basic service. The Commission updated the service quality rules in accordance with the new definition on October 21, 2009, and the rules are now applicable only to basic local telecommunications service, which is defined as "voice-grade, single-line, flat-rate residential local exchange service."[198]

ILEC service quality evaluation reports for Windstream, ITS, AT&T, TDS, Verizon, and CenturyLink (formerly known as Embarq) were published in 2009.[199] The service quality evaluations published in 2009 were conducted before the revision to the statutes and revised service quality rules became effective.

Commission rules also provide ILECs the opportunity to petition the Commission for approval of a Service Guarantee Program (SGP) in lieu of certain service standard rule

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[194] Chapter 25-4, Florida Administrative Code (F.A.C.).
[195] Small ILECs are ITS, Frontier, FairPoint, Smart City, TDS Telecom, Northeast Florida Telephone Company, and Windstream.
[196] Service Quality Rules were updated October 2009 in response to statutory changes effective July 1, 2009.
[197] The rules were changed on October 2nd to reflect 90 percent restored in 24 hours and the reports were changed to be filed quarterly. The new reporting became effective beginning January 1, 2010.
[198] FPSC Order No. PSC-09-0659-FOF-TP and Order No. PSC-09-0660-FOF-TP, Docket No. 080641-TP, In re: Initiation of rulemaking to amend and repeal rules in Chapter 25-4 and 25-9, F.A.C., pertaining to telecommunications.
[199] The reports are posted on the Commission's Web site and can be found at the following link: http://www.psc.state.fl.us/utilities/telecom/servicequality/index2.aspx.

requirements.[200] AT&T, CenturyLink, and Windstream had Commission approved SGPs in effect during 2009.

1. 2009 Service Quality Evaluation Reports

The Windstream service quality evaluation indicated that Windstream was not providing all of the automatic rebates. Windstream's SGP states "Sundays or holidays are not covered by the SGP and will be calculated and credited to customers consistent with Rule 25-4.110(6), F.A.C." Windstream provided a total of $1,372 in out-of-service rebates for the period of July 2006 through December 2007.[201] Windstream started its SGP in July 2006 and the review period of the evaluation concluded in December 2007.

The ITS service quality evaluation also indicated that ITS was not providing all of the automatic rebates. In a response to the service quality evaluation report, ITS stated that a new billing system was implemented in April 2006 and found a problem with the new billing system while training a new clerk in September 2008. As a result, ITS provided a total of $328 in additional rebates to its customers. ITS made changes in its procedures to assure that the system properly provides automatic rebates.

The AT&T service quality evaluation identified minor discrepancies which have been remedied. The categories contributing to the majority of discrepancies were out-of-service trouble reports that were not cleared within 24 hours, out-of-service rebates, and out-of-service SGP rebates. In its response to the draft report, AT&T stated that "it statuses a customer's service as out-of-service based on the customer's report, line test results, and what a technician determines to be the cause of the trouble in the field." Staff considers a trouble report as out-of-service according to the rule, as "[t]he inability, as reported by the customer, to complete either incoming or outgoing calls over the subscriber's line."[202] Most of the discrepancies in these categories were due to situations where AT&T and Commission staff differed on whether or not the customer was out-of-service. However, AT&T credited the customers based on staff's interpretation.

The TDS service quality evaluation indicated that TDS was not providing all of the required automatic rebates. In a response to the service quality evaluation report, TDS stated that "the lack of rebates can be attributed to human error and system process." The amount of the rebates TDS will provide is pending final resolution,[203] TDS made changes in its procedures to assure that the system properly provides automatic rebates.

Verizon's service quality evaluation also indicated that Verizon was not providing all of the required automatic rebates. Verizon stated, "[t]he majority of the missed rebates were related

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[200] Rule 25-4.085, F.A.C., Service Guarantee Program.
[201] FPSC Order No. PSC-09-0359-PAA-TL, Docket No. 090057-TL, In re: Investigation and determination of appropriate method for issuing time-out-of-service credits to all affected customers of Windstream Florida, Inc.
[202] Rule 25-4.003, F.A.C., Definitions.
[203] FPSC Docket No. 100027-TL, In re: Investigation and determination of appropriate method for refunding apparent rebates not provided by Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone as required by rule and/or tariff.

to customers who had their account on vacation service (seasonal service). The customer requested service to be restored from vacation services and a trouble report was received prior to the first bill being generated." Without a bill, Verizon did not have a way to issue a credit for the trouble report and the accounts were placed on a 30-day follow up. The 30-day follow up was not accruing and the company provided rebates to its customers that were affected. Verizon issued a "refresher-training course for its associates."

The CenturyLink service quality evaluation report contained only minor discrepancies. The categories contributing to the majority of the discrepancies were out-of-service trouble reports that were not cleared within 24 hours and service-affecting reports that were not cleared within 72 hours. CenturyLink's response to the draft report stated that "the results are in accordance with its stated goals in its Service Guarantee Program approved by the Commission." CenturyLink operates under an SGP and, therefore, the rules are waived for compliance purposes, but require credits to the customers when the rules are not met.

2. Service Guarantee Programs

ILECs are allowed to petition the Commission for approval of a Service Guarantee Program (SGP) in lieu of certain service standard rule requirements. In exchange for relief from the rules, however, an SGP contains financial incentives for compliance with certain SGP service quality standards. The financial incentives may take the form of a credit to an individual customer for service outages exceeding a certain level, or may require the ILEC to make payments to a fund, which is for the purpose of promoting Lifeline service, in the event the company fails to achieve a certain compliance percentage on a particular service standard established by the SGP. In 2009, three ILECs (AT&T, CenturyLink, and Windstream) operated under Commission-approved SGPs.

AT&T's SGP provides automatic credits to residential customers for service outages exceeding 24 hours and automatic credits for missing service installation commitment dates by more than 3 days.[204] For calendar year 2009:

- AT&T credited its customers $1,400,627 for not repairing out-of-service trouble reports within 24 hours and $181,800 for missed installation commitments.

CenturyLink's SGP provides automatic credits to residential customers for service outages exceeding 24 hours and automatic credits for missed installation commitment dates of greater than 3 days.[205] In 2009:

- CenturyLink credited its customers $187,229 for not restoring residential service outages within 24 hours and $146,150 for missing the service installation commitments.

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[204] FPSC Order No. PSC-10-0077-PAA-TL, Docket No. 090461-TL, Petition for modification of Service Guarantee Program by BellSouth Telecommunications, Inc. d/b/a AT&T Florida., issued February 10, 2010.
[205] FPSC Order No. PSC-05-0918-PAA-TL, Docket No. 050490-TL, Petition for approval of Service Guarantee Program with relief from requirements of Rules 25-4.070(3)(a), 25-4.073(1)(a), and 25-4.110(b), F.A.C., by Sprint-Florida, Incorporated, issued September 19, 2005.

- CenturyLink placed $44,000 to its community fund for missing its monthly average answer time standard.

Windstream's SGP has service standards similar to those of AT&T and CenturyLink concerning service installation, repair intervals, and answer times.[206] In 2009:

- Windstream provided $625 in credits to customers for failing to install service on the agreed upon date.

- Windstream credited $2,184 to those customers experiencing out-of-service conditions.

- Windstream placed $41,000 in its Community Service Fund to promote Lifeline service.

B. Competitive Market Oversight

1. AT&T Request for Waiver of Rule 25-4.040(2), F.A.C.

In 2009, the Commission granted AT&T a temporary two-year waiver of a Commission rule that requires that each subscriber listed in a directory be furnished one copy of that directory (both residential and business pages) for each access line.[207, 208] Under the waiver, AT&T continues to supply business white page listings and yellow pages to all subscribers, but residential white pages are delivered only upon customer request. AT&T notified customers of this change by including a message in the "News You Can Use" section of its customer bills for two months. In addition, the options by which customers may acquire and access residential listings are prominently placed in three locations in the business white page listings, including the toll-free number to request a free copy of the residential white pages listings. To further consumer awareness, the Commission is conducting public outreach to inform consumers of the trial program and collecting customer feedback. Upon completion of the two-year trial period, the Commission will assess consumer feedback and determine if the rule waiver should be continued or revoked.

[206] Docket No. 050938-TP Joint application for approval of transfer of control of Alltel Florida, Inc., holder of ILEC Certificate No. 10 and PATS Certificate No. 5942, from Alltel Corporation to Valor Communications Group, and for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to transfer of long distance customers of Alltel Communications, Inc. to Alltel Corporate Holding Services, Inc.
[207] Rule 25-4.040(2), F.A.C.
[208] Docket No. 090082-TL, In re: Petition by BellSouth Telecommunications, Inc. d/b/a/ AT&T Florida d/b/a/ AT&T Southeast for waiver of Rule 25-4.050(2), Florida Administrative Code.

2. Comcast / TDS Telecom Arbitration

In 2008, Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone (Comcast Phone) filed a Petition for Arbitration with TDS Telecom pursuant to state and federal law.[209] While the Commission has dealt with many arbitration petitions in the past, this case was unique in that it presented only one issue: Is TDS Telecom required to offer interconnection to Comcast Phone under Section 251 of the 1996 Act and/or Sections 364.16, 364.161, and 364.162, F.S.? After an administrative hearing, the Commission concluded that Section 251(a) of the Act imposes a general obligation on all telecommunications carriers to "interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers." The Commission found that Comcast Phone is a telecommunications carrier, as defined by 47 U.S.C. §153 (44), and an obligation to interconnect should rightfully be imposed on TDS.[210] On January 6, 2010, the parties filed a fully executed interconnection agreement.

3. Rulemaking to Implement Changes to Section 364.04, F.S.

During the 2009 legislative session, Section 364.04, F.S., was amended to allow telecommunications companies, at their option, to continue filing price schedules (formerly known as tariffs) with the Commission or to publish their schedules through other reasonably publicly accessible means, such as a web site. A telecommunications company that does not file its schedules with the Commission is required to inform its customers where they may view the company's schedules. The Commission held a rulemaking workshop on March 30, 2010, to discuss possible amendments to the current rules. Post-workshop comments were filed on May 7, 2010. The Commission is in the process of reviewing the comments.

4. Bright House / Verizon Arbitration

On November 3, 2009, Bright House Networks Information Services (Florida), LLC, a certificated CLEC, filed a petition for arbitration with Verizon Florida, LLC pursuant to state and federal law.[211] Initially, over 40 issues were in dispute, including a number of issues that were cases of first impression for the Commission. However, through continued negotiations, the parties resolved all but eight issues prior to hearing, and this matter was heard in May 2010. Parties filed briefs and reply briefs in July 2010 and a staff recommendation will follow.

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[209] Docket No. 080731-TP, In re: Petition by Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone for arbitration of an interconnection agreement with Quincy Telephone Company d/b/a TDS Telecom, pursuant to Section 252 of the Federal Communications Act of 1934, as amended, and Sections 120.57(1), 120.80(13), 364.012, 364.15, 364.16, 364.161, and 364.162, F.S., and Rule 28-106.201, F.A.C.

[210] Order No. PSC-09-0839-FPF-TP, issued December 21, 2009, in Docket No. 080731-TP, In re: Petition by Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone for arbitration of an interconnection agreement with Quincy Telephone Company d/b/a TDS Telecom, pursuant to Section 252 of the Federal Communications Act of 1934, as amended, and Sections 120.57(1), 120.80(13), 364.012, 364.15, 364.16, 364.161, and 364.162, F.S., and Rule 28-106.201, F.A.C.

[211] Docket No. 090501-TP, In re: Petition for arbitration of certain terms and conditions of an interconnection agreement with Verizon Florida, LLC by Bright House Networks Information Services (Florida), LLC.

5. DeltaCom / Hypercube Access Charge Dispute

DeltaCom, Inc., (DeltaCom) filed a petition on June 5, 2009, seeking an order from the Commission that the company is not liable for intrastate access charges billed by Hypercube Telecom, LLC (Hypercube).[212] DeltaCom alleges that Hypercube needlessly inserts itself into the call flow for certain wireless calls. Some wireless carriers pass traffic to Hypercube instead of directly to the ILEC to which it is already directly connected. Hypercube then delivers the traffic to the ILEC. Hypercube does not charge wireless providers for this transiting service, but instead seeks to charge wireline carriers such as DeltaCom. Hypercube, a CLEC, argues that it has lawfully charged DeltaCom for telecommunications services performed by Hypercube in connection with DeltaCom's provision of toll-free calls that originate and terminate within Florida. This matter is scheduled to be heard by the Commission on September 8-9, 2010.

6. AT&T Florida / Sprint Nextel Interconnection Agreement Dispute

On January 8, 2010, AT&T filed a complaint against Sprint Nextel asking the Commission to find that Sprint Nextel had violated their interconnection agreements by failing to pay the appropriate charges for interMTA traffic[213] and to require Sprint Nextel to pay all past due amounts for AT&T's termination of such traffic.[214] Sprint Nextel believes this dispute concerns AT&T's efforts to unilaterally change a longstanding, previously agreed upon and implemented contract provision that specifically addresses the treatment of interMTA traffic. The parties requested that the Commission defer ruling on this matter until after July 2010. The outcome had not been announced as of the publishing date of this report.

7. AT&T Florida / Sprint Nextel Arbitration

On April 9, 2010, AT&T filed two petitions for arbitration, one with Sprint Communications Company L.P., a CLEC, and the other with Nextel Partners, a wireless provider.[215] On May 4, 2010, the Sprint Nextel companies filed Motions to Consolidate in each docket requesting consolidation since both dockets involve substantially overlapping subject matter and substantially overlapping disputed issues. AT&T responded to the Motions on May 11, 2010, asking the Commission to defer ruling until the parties complete their negotiations. On May 21, 2010, an informal meeting was held to discuss procedural matters and the status of the parties' negotiations. At that meeting the parties agreed that the Commission should continue to defer ruling on the pending Motions while the parties continue to negotiate issues in dispute and procedural matters. A second informal meeting was held on June 21, 2010. At that meeting the parties advised Commission staff that the issue of consolidating dockets had been resolved and

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[212] Docket No. 090327-TP, In re: Petition of DeltaCom, Inc. for order determining DeltaCom, Inc. not liable for access charges of KMC Data LLC, and Hypercube Telecom, LLC.
[213] An MTA is a geographic service area defined by the FCC for wireless carriers.
[214] Docket No. 100019-TP, In re: Complaint to enforce interconnection agreements between BellSouth Telecommunications, Inc. d/b/a AT&T Florida and Sprint Spectrum, L.P., Wireless Co, L.P. and SprintCom, Inc. (jointly d/b/a Sprint PCS) and Nextel South Corp.
[215] Docket No. 100176-TP, In re: Petition for arbitration of interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida and Sprint Communications Company L.P. and Docket No. 100177-TP, Petition for arbitration of interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida and Sprint Spectrum L.P., Nextel South Corp. and NPCR, Inc. d/b/a Nextel Partners.

that approximately 50-60 issues remain in dispute. A meeting to finalize issues is scheduled for sometime in July and the matter is currently scheduled to be heard by the Commission in December 2010.

8. Qwest's Discrimination Complaint

On December 11, 2009, Qwest filed a complaint alleging that multiple CLECs (the CLECs), including Verizon Access Transmission Services; XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Cox Florida Telcom, L.P.; Broadwing Communications, LLC; and CLECs whose true names are currently unknown, have subjected Qwest to unjust and unreasonable rate discrimination in connection with the provision of intrastate switched access services in violation of state law.[216] Specifically, Qwest believes that the CLECs entered into undisclosed contract service agreements (or individual case basis arrangements) with select IXCs outside of tariffs or price lists and failed to make those same rates, terms, and conditions available to Qwest.

Five of the six named CLECs, XO, Time Warner Cable, Granite, Cox, and Broadwing, filed a Joint Motion to Dismiss with prejudice Qwest's requests for "reparations" and injunctive relief on the grounds that the Commission lacks jurisdiction to grant such relief. In addition, Verizon Access filed a Motion to Dismiss Reparations Claim and Motion for Final Summary Order Dismissing All Other Claims Against Verizon Access, asserting that Verizon Access has no individual case basis contracts for intrastate switched access service in Florida.

The Commission addressed the Motions at its May 4, 2010 Agenda Conference and decided that upon review of the parties' arguments and consistent with previous decisions, the Joint CLECs' Partial Motion to Dismiss and Verizon Access' Motion to Dismiss Reparations Claim be granted to the extent Qwest seeks monetary damages or injunctive relief. However, the Commission noted that it does have the authority to order refunds, if applicable.[217] In addition, a conclusive showing that there is no genuine issue of material fact in dispute was not made by Verizon Access. Therefore, Verizon Access' Motion for Summary Final Order was denied without prejudice. This matter will likely be scheduled for an administrative hearing in the near future.

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[216] Docket No. 090538-TP, In re: Complaint of Qwest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services); XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Cox Florida Telcom, L.P.; Broadwing Communications, LLC; and John Does 1 through 50 (CLEC's whose true names are currently unknown) for rate discrimination in connection with the provision of intrastate switched access services in alleged violation of Sections 364.08 and 364.10, F.S.

[217] Order No. PSC-10-0296-FOF-TP, issued May 7, 2010 in Docket No. 090537-TP, In re: Complaint of Qwest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services); XO Communications Services, Inc.; tw telecom of florida, l.p.; Granite Telecommunications, LLC; Cox Florida Telcom, L.P.; Broadwing Communications, LLC; and John Does 1 through 50 (CLECs whose true names are currently unknown) for rate discrimination in connection with the provision of intrastate switched access services in alleged violation of Sections 364.08 and 364.10, F.S.

9. dPi Teleconnect Promotional Credits Complaint

dPi Teleconnect, LLC (dPi) filed a complaint against AT&T on May 1, 2009, seeking to recover cash-back promotional credits.[218] dPi argues that AT&T has, over the past months and years, sold AT&T retail services at a discount to AT&T end users under various promotions that have lasted for more than 90 days. dPi further contends it is entitled to purchase and resell those same services at the promotional rate, less the wholesale discount. dPi argues that although it met the same qualifications as AT&T Florida's retail end users and applied for the promotional credits, dPi has not received the credits requested for the periods ending June 8, 2007. An administrative hearing was scheduled for April 14, 2010; however, dPi filed a Notice of Voluntary Dismissal of Complaint with Prejudice on April 5, 2010.

10. AT&T Promotional Credits Complaints

AT&T filed complaints against Image Access, Inc. d/b/a New Phone (New Phone), and LifeConnex Telecom, LLC (LifeConnex) on January 8, 2010, asserting that both companies have unpaid balances for telecommunications services provided by AT&T for resale under the terms and conditions of their applicable interconnection agreements.[219] According to AT&T, as of November 2009, NewPhone has a past due and unpaid balance of more than $245,000 in Florida, and LifeConnex has a past due and unpaid balance exceeding $1 million in Florida. Both New Phone and LifeConnex deny the allegations in AT&T's complaints and have filed Motions to Dismiss and/or Stay.[220] The parties filed a Joint Motion on Procedure on June 15, 2010, requesting that the Commission hold the proceedings in abeyance until similar proceedings in several other states are completed. The Commission issued an order granting the petition on June 18, 2010.[221]

11. Wholesale Performance Measurement Plans

Wholesale performance measurement plans provide a standard against which the Commission can measure performance over time to detect and correct any degradation in the quality of service ILECs provide to CLECs. The Commission adopted performance measurements for AT&T (formerly BellSouth) in August 2001, for CenturyLink (formerly Embarq) in January 2003, and for Verizon in June 2003. Trending analysis is applied to monthly performance measurement data provided by each ILEC.

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[218] Docket No. 090258-TP, In re: Complaint by dPi Teleconnect, L.L.C. against BellSouth Telecommunications, Inc. d/b/a AT&T Florida for dispute arising under interconnection agreement.

[219] Docket No. 100021-TP, In re: Complaint and petition for relief against LifeConnex Telecom, LLC f/k/a Swiftel, LLC by BellSouth Telecommunications, Inc. d/b/a AT&T Florida and Docket No. 100022-TP, In re: Complaint and petition for relief against Image Access, Inc. d/b/a New Phone by BellSouth Telecommunications, Inc. d/b/a AT&T Florida.

[220] AT&T filed to consolidate these dockets for the limited purposes of expeditiously resolving the two common issues; New Phone and LifeConnex oppose consolidation.

[221] FPSC Order No. PSC-10-0402-PCO-TP, issued June 18, 2010 in Docket No. 100021-TP, In re: Complaint and petition for relief against LifeConnex Telecom, LLC f/k/a Swiftel, LLC by BellSouth Telecommunications, Inc. d/b/a AT&T Florida and Docket No. 100022-TP, In re: Complaint and petition for relief against Image Access, Inc. d/b/a New Phone by BellSouth Telecommunications, Inc. d/b/a AT&T Florida.

For AT&T, the Commission adopted a Performance Assessment Plan to measure AT&T's wholesale performance. AT&T's current Performance Assessment Plan consists of 49 performance measurements. Remedy payments may be applied to 35 of the measurements if AT&T fails to meet the performance standards approved by the Commission. For the calendar year 2009, AT&T paid approximately $943,456 in remedies to CLECs and $290,614 in remedies to the State of Florida General Revenue fund. In June 2009, the Commission initiated a review and assessment of the Performance Assessment Plan and anticipates resolution of any changes in 2010. AT&T, CLECs, Florida Cable Telecommunications Association, and Commission staff are participating in the review. AT&T is seeking to eliminate the remedies and penalties paid to the State of Florida for failed performance.

CenturyLink's current Performance Measurement Plan contains 36 performance measures designed to ascertain if the ILEC is providing nondiscriminatory service to CLECs. CenturyLink furnishes monthly performance reports to the Commission for review and assessment. The company also prepares a monthly root cause analysis report of measurements that have not met established standards for three consecutive months. For the calendar year 2009, CenturyLink's monthly compliance with established standards has ranged from 91.6 percent to 96.9 percent.

Verizon's current Performance Measurement Plan contains more than 40 measures. Under this plan, Verizon furnishes monthly performance reports to the Commission for review and assessment. For the calendar year 2009, Verizon's monthly compliance with approved standards ranged from 82.2 percent to 88.3 percent.

C. Broadband Grants Activity

The DMS was awarded grant money made available through the ARRA to map Florida broadband service. As provided by the ARRA, NTIA is in charge of determining recipients of the funding through the State Broadband Data and Development grant program (SBDD) and facilitating the reporting process for each project. The total cost of the Florida DMS SBDD project is estimated at $7.1 million with a proposed $4.9 million being funded with grants. The initial funding awarded by NTIA was $2.5 million and covers the first 2 years of the project. NTIA will disburse funding for the remaining three years at a later time. DMS opted to outsource the project to a third-party vendor and the contract was awarded to Connected Nation. Connect Florida is the official broadband mapping entity and will maintain the map and all of the associated data sets. Connected Nation uses a software system called Broadband Stat that will allow users to search for providers and broadband information using a variety of criteria. Broadband Stat is a flexible tool that will permit the map owner/administrator to input multiple data sets in order to map a variety of characteristics such as connection speed, technology type, and Florida-specific demographic characteristics. Connected Nation will be providing training on the Broadband Stat tool as part of the project.

The initial mapping data upload was completed in May 2009. Anchor institution data was loaded in June 2009. DMS projects that approximately 30,000 anchor institutions will be included in the final maps. Out of the 322 broadband providers in Florida, only 67 were designated as qualified providers as defined by the NTIA. Site validation through field work will be completed by December 2010.

As part of the overall mapping grant, DMS was awarded $500,000 to be used specifically for planning purposes over a 5-year period. The focus of the SBDD planning grant is to research and analyze how government and anchor institutions in Florida are using, procuring, and providing broadband services to determine if there are options to optimize broadband investments through leveraging demand aggregation. The funding will be used in partnership with the Public Utility Research Center.

Upon being named the official agency to manage the state broadband efforts in 2009, DMS created a broadband workgroup consisting of representatives from a variety of state agencies and Enterprise Florida. The FPSC representatives were chosen as core members of the workgroup and have participated since the onset of the group's formation. The workgroup acts as the steering committee for both pieces of the project.

D. State Legislation

1. SB 814 Lifeline

SB 814 permits CMRS or wireless carriers that have been designated as Eligible Telecommunications Carriers (ETCs) to provide Lifeline services to customers meeting the 150 percent of federal poverty guideline income eligibility test. A wireless ETC must notify the FPSC that it has elected to use the federal poverty guidelines as an eligibility criterion prior to enrolling subscribers under the income eligibility test. The bill also changes the date by which procedures to promote Lifeline participation must be developed from December 31, 2007, to December 31, 2010, and requires designated ETCs to participate in this process. Further, the bill directs the FPSC, the Department of Children and Family Services (DCF), the Department of Education, and the Office of Public Counsel (OPC) to share with ETCs information such as a person's name, date of birth, service address, and telephone number, so that the carriers can identify and enroll an eligible person in the Lifeline and Link-Up programs. This information must remain confidential and may only be used to determine eligibility and enrollment in the Lifeline and Link-Up programs.

Finally, the bill directs the FPSC, DCF, OPC, and ETCs offering Lifeline and Link-Up benefits to convene a workshop by December 31, 2010, to determine how customer information necessary to determine eligibility and enrollment will be shared, the obligations of each party relating to the use of the information, and the procedures necessary to increase enrollment and verify customer eligibility for the Lifeline and Link-Up benefits. The bill was signed by the Governor on June 3, 2010, and became effective July 1, 2010.

2. HB 1377 Telecommunications Regulation

HB 1377 repealed sections of Chapter 364 F.S. related to rate-of-return regulation. The section repealed, the title of the section, and the justification of the repeal appear on Table 6-1.

Table 6-1. Section-by-Section Analysis of HB 1377

Section, F.S.	Title	Comment
364.03	Rates to be reasonable; performance of service; maintenance of telecommunications facilities	Obsolete; covered elsewhere
364.035	Rate fixing; criteria service complaints	Obsolete; rate-of-return
364.037	Telephone directory advertising	Obsolete; rate-of-return
364.05	Changing rates, tolls, rentals, contracts or charges.	Obsolete; rate-of-return
364.055	Interim rates; procedure	Obsolete; rate of return
364.14	Readjustment of rates, charges, tolls, or rentals; order or rule compelling facilities to be installed, etc.	Obsolete; rate-of-return
364.17	Forms of reports, accounts, records, and memoranda.	Obsolete; rate-of-return; covered elsewhere
364.18	Inspection of accounts and records of companies.	Obsolete; rate-of-return; covered elsewhere

Source: Florida Statutes

The bill also amends Section 364.051, F.S., Price Regulation, to repeal the ILEC option to elect price cap regulation. Since all ILECs have elected price cap regulation, these sections are obsolete. Portions of Section 364.052, F.S., Regulatory methods for small local exchange telecommunications companies, relating to rate-of-return regulation, are also deleted. The bill was signed by the Governor on May 7, 2010, and became effective July 1, 2010.

3. HB 163 E911 Fees for Prepaid Wireless Service

HB 163 provides that the E911 fee shall not be assessed on or collected from providers of wireless prepaid calling arrangements prior to July 1, 2013. The bill further provides that the E911 Board shall collect the fee from the sale of prepaid wireless service, beginning July 1, 2013, if it determines that a fee should be collected from the sale of such service. The bill was signed by the Governor on May 11, 2010, and became effective on July 1, 2010.

4. SB 742 Public Safety Telecommunicators / E911

SB 742 requires any person employed as a 911 public safety telecommunicator at a public safety answering point to be certified by the Department of Health (DOH) by October 1, 2012. The bill renames "911 emergency dispatchers" as "911 public safety telecommunicators" and expands the functions they perform related to 911 calls. The bill adds dispatching to the list of E911 services and revises the authorized expenditures of the E911 fee to include the fees collected by the DOH for certification and recertification of 911 public safety telecommunicators. Certification requirements for public safety telecommunicators are outlined in the bill, including fees and requirements for applicants to sit for a certification examination developed by the DOH. The bill was signed by the Governor on June 3, 2010, and became effective July 1, 2010.

Chapter VII. Federal Activities

A. Broadband

1. National Broadband Plan

The ARRA was signed into law February 17, 2009. The ARRA required the FCC to develop a NBP within one year of passage of the legislation, and the final Plan was released on March 16, 2010. In general, the Plan seeks to ensure all people of the United States have access to broadband capability and establishes benchmarks for meeting that goal. The FCC coordinated with the NTIA to develop achievable specific goals. The goals of the plan are to:

- Broaden the deployment of broadband technologies.
- Define broadband to include any platform capable of transmitting high-bandwidth services.
- Ensure harmonized regulatory treatment of competing broadband services.
- Encourage and facilitate an environment that stimulates investment and innovation in broadband technologies and services.

The FCC released a 2010 timeline to begin implementation of the recommendations in the Plan. The recommendations include a complete overhaul of the current universal service fund (USF) and ICC programs; increasing spectrum availability, expansion of Lifeline, Link-Up, and E-rate eligibility; and encouraging smart grid energy networks. Coordination between federal, state, and local governments; industry professionals; and community involvement will be necessary to accomplish the tasks proposed by the FCC.

Of particular interest to the state of Florida is the recommendation to reform the current USF program. Florida is the largest net contributor to the fund. The Plan lays out a three-stage strategy to change the USF and ICC programs to remove barriers and to transition support to broadband services to make them more widely available to people in the U.S. at an affordable price.

The first stage calls for improved accountability and performance of the current ICC and USF programs by the end of 2011. The Connect America Fund (CAF) will be created to eventually take the place of the high-cost programs. The FCC plans to transfer $15.5 billion over the next decade from the high-cost programs to support broadband services through the CAF. The FCC also suggests that Congress provide an additional few billion dollars a year in funding to accelerate broadband deployment. The FCC will also initiate actions to establish a transition plan to eliminate per-minute charges in the ICC program.

The second stage will begin in 2012 and last through 2016. The FCC anticipates that the disbursements from the CAF will begin in this stage. The FCC also plans to broaden the USF contribution base and begin to implement the ICC transition plan. In the third stage the FCC will

continue to manage the overall size of the fund, complete the transition from the high-cost support programs to the CAF, and decrease ICC rates.

2. Broadband Data Collection

The National Association of Regulatory Utility Commissioners (NARUC) filed a petition on September 25, 2009, requesting that the FCC "clarify that no FCC-issued order or regulation limits state authority to collect any data from any broadband infrastructure or service provider."[222] NARUC filed its petition during national efforts to increase the deployment and adoption of broadband services. A critical element of this effort is improving the quality and usefulness of data regarding broadband infrastructure and services. Congress recognized this point and enacted the Broadband Data Improvement Act (BDIA) in October 2008. The goal of BDIA was to improve federal data on broadband deployment and adoption that "will assist in the development of broadband technology across all regions of the country."

In enacting the BDIA, Congress recognized that a number of states were attempting to collect broadband-related data. Those efforts, however, typically rely on voluntary submissions from broadband providers. The reliance on voluntary submissions has made it difficult, if not impossible, for any given state to obtain comprehensive and reliable information on broadband deployment and adoption within its borders. NARUC asserted that states accepted a voluntary submission regime in part because of uncertainty as to whether the FCC had preempted state broadband data collection efforts. NARUC filed its petition in order to eliminate this uncertainty.

On April 26, 2010, the FCC issued an Order concluding that it has not preempted or otherwise precluded the states from mandating that broadband providers file data or other information regarding broadband infrastructure or services. In issuing this declaratory ruling, the FCC expressed no opinion regarding whether the laws of any particular state authorize the state's public utilities commission or similar agency to require the filing of such data or information.

3. Network Neutrality and Internet Network Management

The United States Court of Appeals for the District of Columbia (Court) ruled, on April 6, 2010, that the FCC exceeded its authority when it issued a 2008 order barring Comcast from interfering with its customers' use of peer-to-peer applications over its broadband service. Peer-to-peer programs allow users to share large files directly with one another without going though a central server. Peer-to-peer traffic can consume significant amounts of bandwidth and could affect Internet performance of other consumers. Providers, such as Comcast, contend that they should be able to manage their network traffic, especially certain applications which use peer-to-peer interconnection, to maintain network performance. At issue is the ability of consumers to access applications and content without an intentional degradation of service by a broadband provider. This principle is more commonly referred to as network neutrality.

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[222] National Association of Regulatory Utility Commissioners, Petition for Clarification or Declaratory Ruling that No FCC Order or Rule Limits State Authority to Collect Broadband Data (filed September 25, 2009).

Beginning in 2002, the FCC adopted a series of orders classifying broadband Internet access services as information services subject to the FCC's general jurisdiction under Title I of the 1996 Act. Prior to Title II classification, broadband transmissions were treated as common carrier services subject to more specific statutory requirements set forth in Title II of the 1996 Act. Although the Act does not establish specific rules for providers of information services, the Supreme Court has held that the 1996 Act gives the FCC "ancillary authority" under Title I to regulate matters that fall within its federal jurisdiction but are not directly addressed by the substantive provisions of the Act.

The Court's Order only addressed whether the FCC's authority under ancillary jurisdiction extends to regulation of an Internet service provider's network management practices. The Court concluded that the FCC's ancillary authority must be tied to an expressly delegated authority. Because the FCC did not demonstrate such a link in defending its Order, the Court vacated the FCC's Order.

FCC Chairman Genachowski has issued a statement outlining a framework to reclassify broadband services as a "telecommunications services" under Title II.[223] Chairman Genachowski recognizes that simply reclassifying broadband services under Title II would expose broadband service providers to the extensive regulations that he believes are ill suited to broadband. His proposed alternative would still reclassify broadband transmission services under Title II, but would forbear from applying most of Title II's regulatory requirements in a manner similar to wireless communications.

Currently the FCC has not issued a Notice of Proposed Rulemaking (NPRM) or Notice of Inquiry (NOI) seeking comment on the Chairman's proposal. However, other FCC commissioners have issued general comments regarding the proposal. Commissioners Copps and Clyburn have expressed general support to the proposal, while Commissioners McDowell and Baker expressed concern.[224, 225, 226]

B. Universal Service

Consumers in Florida pay significantly more into the federal USF than what is returned to eligible service providers in Florida.[227] For this reason, the FPSC continues to actively monitor

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[223] FCC, Statement by Chairman Genachowski, "The Third Way: A Narrowly Tailored Broadband Framework," released May 6, 2010, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-297944A1.pdf>, accessed on May 19, 2010.

[224] "Statement of Commissioner Michael J. Copps on Chairman Genachowski's Announcement to Reclassify Broadband," FCC News Release, May 6, 2010, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-297946A1.pdf>, accessed on May 19, 2010.

[225] "Statement of Commissioner Mignon Clyburn on Chairman Genachowski's Announcement to Reclassify Broadband," FCC News Release, May 6, 2010, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-297959A1.pdf>, accessed on May 19, 2010.

[226] "Joint Statement of Commissioners McDowell and Baker on Chairman Genachowski's Announcement to Reclassify Broadband," FCC News Release, May 6, 2010, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-297948A1.pdf>, accessed on May 19, 2010.

[227] FCC, "Universal Service Monitoring Report," CC Docket No. 98-202, released December 31, 2009, Table 1.12, < http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-295442A1.pdf>, accessed on June 4, 2010.

and participate in ongoing proceedings at the FCC and with the Federal-State Joint Board on Universal Service (Joint Board). Table 7.1 shows Florida's estimated contribution and receipts for 2008.

Table 7-1. 2008 Federal Universal Service Programs in Florida
(Annual Payments and Contributions in Thousands)

Program	Payments to Service Providers	Estimated Contributions from Consumers	Estimated Net	Prior Year Estimated Net
High-Cost	$77,293	$296,859	($219,566)	($209,950)
Low Income	$24,283	$54,316	($30,033)	($35,182)
Schools & Libraries	$76,306	$116,671	($40,365)	($43,307)
Rural Health Care	$270	$3,279	($3,009)	($2,342)
Total[228]	$178,152	$482,420	($304,268)	($297,876)

Source: FCC Universal Service Monitoring Report, Table 1.1 (2008-2009)

1. FCC's Response to Court's Remand of High-Cost Rules

In 2005, the Tenth Circuit Court of Appeals remanded the FCC's rules regarding high-cost universal service support to nonrural carriers for the second time.[229] The high-cost funds related to the affected rules represent approximately 8 percent of the high-cost fund in 2009 and about 5 percent of the total federal universal service program.[230] The Tenth Circuit directed the FCC to address the following three issues:

1. Articulate a definition of "sufficient" that appropriately considers the range of principles that Congress established in Section 254(b) of the 1996 Act.

2. Define the term "reasonably comparable" in a manner that comports with the concurrent duties to preserve and advance universal service.

[228] The total contribution in this table includes approximately $7 million in administrative expenses for the Universal Service Administrative Company.
[229] Qwest Communications Int'l, Inc. v. FCC, 398 F.3d 1222 (10th Cir. 2005).
[230] Universal Service Administrative Company, 2009 Annual Report, pp. 39-40.

3. Craft a support mechanism taking into account all the factors that Congress identified in drafting the Act and its statutory obligation to preserve and advance universal service.

The FCC made little progress addressing the court's remand until 2009. In January 2009, Qwest Corporation, the Maine Public Utilities Commission, the Vermont Public Service Board, and the Wyoming Public Service Commission (the petitioners) filed a petition for a writ of mandamus with the Tenth Circuit, asserting that the FCC had unreasonably delayed responding to the Court's remand. Shortly after that petition was filed, the FCC and the petitioners negotiated an agreement under which the FCC would release a final order that responds to the court's remand no later than April 16, 2010.

As promised, the FCC's Order on Remand was released on April 16, 2010.[231] In the Order, the FCC defined "sufficient" as an affordable and sustainable amount of support that is adequate, but no greater than necessary, to achieve the goals of the universal service program. The FCC asserts that the current nonrural high-cost support mechanism provides sufficient support to achieve the universal service principles set forth in Section 254(b) of the 1996 Act. In contrast to prior orders, the FCC argues that any determination regarding sufficiency must look at the cumulative effect of all four support programs, not just the high-cost program. The FCC further buttresses this argument by noting that subscribership penetration rates have increased since Congress enacted Section 254, thus demonstrating that rates are not too high.

In the order, the FCC argues that rural rates are "reasonably comparable" to urban rates if rural rates fall within a reasonable range of national average urban rates. Only one state, Wyoming, argued that rural rates in Qwest's service territory were not reasonably comparable to the nationwide average urban rate. In its 2005 order, the FCC had created a "supplemental support mechanism" that would target support to those areas that had taken all responsible steps to achieve reasonable comparability through state action and existing federal support. Prior to this order, no carrier had received support from this mechanism. The Order concludes that the current nonrural support mechanism produces rates that preserve and advance universal service.

2. Reform of Universal Service and Intercarrier Compensation

The FCC requested comments from interested parties on how to begin implementing elements of the NBP to fundamentally reform both intercarrier compensation and the federal USF.[232] The notice requesting comments was issued in April 2010. The notice seeks comment on whether the FCC should use a model to help determine universal service support levels in areas where no private sector business case exists to provide broadband and voice services. The notice also seeks comment on the best way to target funding toward new deployment of broadband networks in unserved areas while the FCC is considering final rules to implement a new CAF funding mechanism. The purpose of the CAF is to ensure universal access to both broadband and voice services.

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[231] FCC 10-56, Order on Remand and Memorandum Opinion and Order, WC Docket No. 05-337 and CC Docket No. 96-45, adopted and released on April 16, 2010.

[232] FCC 10-58, Notice of Inquiry and Notice of Proposed Rulemaking, WC Docket No. 10-90, GN Docket No. 09-51, and WC Docket No. 05-337, adopted and released on April 21, 2010.

Within the notice, the FCC also seeks comments on changes to current rules that would cut legacy universal service spending on voice services in high-cost areas and to shift support to broadband communications. These proposals include capping the overall size of the high-cost program at 2010 levels, re-examining the current regulatory framework for smaller carriers in light of competition and growth in unregulated revenues, and phasing out support for multiple competitors in areas where the market cannot support even one provider.

The proposal to cap the overall size of the high-cost program was recommended by the Joint Board in November 2007. The FPSC supported such a cap in comments filed with the FCC. Because the FCC has already implemented a cap affecting competitive ETCs, the size of the high-cost fund has not increased significantly since 2007.

3. Separate High-Cost Support for Nonrural Insular Carriers

In 2005, the FCC considered creating a separate high-cost universal service support mechanism for nonrural insular areas. The Puerto Rico Telephone Company (PRTC) had asserted that a separate nonrural insular high-cost fund was needed. In 2005, telephone subscribership in Puerto Rico (a nonrural insular area) was 73.8 percent, far below the national average of 94.8 percent.

The FPSC filed reply comments on May 16, 2006, in this proceeding in opposition to further growth in the high-cost fund. Specifically, the FPSC did not believe the interim high-cost support mechanism sought by PRTC was warranted. PRTC failed to show how decreases in high-cost support had negatively affected subscribership. Moreover, if the FCC wished to provide additional high-cost support, another mechanism already exists to do so.[233] The creation of a new insular high-cost mechanism for one carrier appears to be inconsistent with how the FCC has addressed similar subscribership issues on federally recognized tribal lands, where the FCC expanded Lifeline and Link-Up support, not high-cost support. The FPSC urged the FCC not to address affordability issues through the high-cost mechanism.

On April 16, 2010, the FCC released an Order concluding that dramatic increases in telephone subscribership in Puerto Rico over the last several years make it unnecessary to adopt a new high-cost support mechanism for nonrural insular carriers. Subscribership in Puerto Rico had jumped to 91.9 percent by 2008. Total high-cost support for Puerto Rico rose from less than $140 million in 1998 to more than $215 million in 2008, an increase of nearly 54 percent, and low-income support jumped from $1.16 million in 2001 to $23.4 million in 2008.

4. Effects of Merger Conditions on Competitive ETCs

On November 4, 2008, the FCC approved two telecommunications mergers upon the companies' agreement to several key conditions. The first merger was between Verizon Wireless and Alltel Corporation, and the second was the combination of the WiMAX network holdings of Sprint Nextel and Clearwire Corporation. Of particular interest is the impact the

[233] The FCC has already made supplemental support available to nonrural carriers that demonstrate that their rates in rural, high-cost areas are not reasonably comparable to urban rates nationwide and that the state has taken steps to achieve reasonable comparability.

mergers will have on the federal USF, and specifically on high-cost support. Both companies have agreed to a five-year phase down of the high-cost support they currently receive. The total federal high-cost support would be reduced by 20 percent for the first year, and by an additional 20 percent per year for the subsequent 4 years. Competitive ETCs, like Alltel and Sprint Nextel, can request high-cost support if such funding is justified by a cost analysis. Prior to these orders, the support these carriers received was based on the equal support rule under which support is currently capped.

For 2008, the total high-cost fund was $4.4 billion.[234] Competitive ETCs received approximately $1.3 billion of this amount.[235] Alltel received $414 million in 2008 and Sprint Nextel received $63 million in 2008.[236] The reduction agreed to in the mergers represents an 11 percent decrease in the total size of the high-cost fund and a 36 percent decrease in the high-cost support that competitive ETCs receive.

If the final reform adopted by the FCC results in more significant reductions in high-cost support, then these carriers could potentially receive more support under the five-year phase down. Alternatively, if any final reform results in more support being available to carriers (such as from a fund specifically for wireless carriers), then the merged companies could discontinue further phase downs and apply for support under the new rules.

5. Referral of Lifeline / Link-Up Issues to the Federal-State Joint Board

On May 4, 2010, the FCC asked the Joint Board to review the rules relating to the federal Lifeline and Link-Up programs.[237] Specifically, the FCC asked the Joint Board to recommend any changes to these programs that might be necessary based on consideration of:

1. The combination of federal and state rules that govern which customers are eligible to receive discounts.

2. Best practices among states for effective and efficient verification of customer eligibility.

3. Appropriateness of various outreach and enrollment programs.

4. The potential expansion of the low-income program to broadband, as recommended in the NBP.

The FCC requested that the Joint Board prepare a recommended decision regarding these issues and submit its decision to the FCC within six months.

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[234] FCC, "Universal Service Monitoring Report," CC Docket No. 98-202, released December 31, 2008, Table 3.2, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-287688A5.pdf >, accessed on April 2, 2008.
[235] Ibid.
[236] Universal Service Administrative Company, High Cost Data Disbursement Search Tool, Spin Codes: 143008900, 143006742, 143000910, and 143010148, <http://www.usac.org/hc/tools/disbursements/default.aspx>, accessed on April 22, 2009.
[237] FCC 10-72, Order, CC Docket No 96-45 and WC Docket No. 03-109, released May 4, 2010, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-72A1.pdf>, accessed on May 5, 2010.

6. Afterhours Use of Internet Connections at Schools Receiving E-Rate Funding

The FCC released an order on February 19, 2010, that enables schools that receive funding from the schools and libraries program (or E-rate program) to allow members of the public to use the schools' Internet access during non-operating hours.[238] This action will leverage universal service funding to serve a larger population at no increased cost to the E-rate program.

Previously, FCC rules required schools to certify that they would use E-rate funded services solely for "educational purposes," defined as activities that are integral, immediate, and proximate to the education of students. As a result, services and facilities purchased by schools using E-rate funding remain largely unused during evenings, weekends, school holidays, and summer breaks. The waiver of the FCC's rules is effective through funding year 2010 (which ends June 30, 2011). The waiver is subject to the following conditions:

- Schools participating in the E-rate program are not permitted to request more services than are necessary for "educational purposes."

- Any community use of E-rate funded services at a school facility is limited to non-operating hours, such as after school hours or during times when the students are out of school.

- Consistent with the 1996 Act, schools may not resell discounted services or network capacity.

In addition, the FCC adopted a NPRM which seeks comment on revising its rules to make these changes permanent. The FCC also seeks comment on conditions that should be established to guard against waste, fraud, and abuse.

C. Local Number Portability

Local Number Portability (LNP) allows end-users the option to switch their telecommunications service provider without having to change their telephone numbers, as long as the location remains the same. In May 2009, the FCC reduced the porting interval timeframe for simple wireline and simple intermodal port requests from four business days to one business day.[239, 240] The four-business-day porting interval for simple wireline port requests was adopted more than ten years ago. Since that time, the telecommunications market has changed dramatically, and technological advances have enabled number porting to be accomplished in a

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[238] FCC 10-33, CC Docket No. 02-6, Order and Notice of Proposed Rulemaking, released February 19, 2010, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-10-33A1.pdf>, accessed May 5, 2010.

[239] FCC 09-41, CC Docket No. 95-116, Telephone Number Portability, and WC Docket No. 07-244, Local Number Portability Interval and Validation Requirements, Report and Order and Further Notice of Proposed Rulemaking, released May 13, 2009).

[240] The FCC defined "intermodal ports" as "(1) wireline to wireless ports; (2) wireless to wireline ports, and (3) ports involving interconnected Voice Over Internet Protocol (VoIP) service."

much shorter period, as evidenced by the voluntary two and one-half hour wireless provider interval standard.

The North American Numbering Council (Council), a Federal Advisory Committee established by the FCC, addressed the implementation issues for the new porting interval 90 days after the effective date of the FCC order. The FCC order stated that all providers subject to FCC LNP rules must comply with the one-business-day porting interval within nine months from the date that the Council submitted its report to the FCC, which was October 31, 2009. As of July 31, 2010, all providers subject to the FCC's LNP rules must comply with the 1-business-day porting interval, except small providers whom were given 15 months from the date that the Council submitted its report to the FCC to comply, January 31, 2011.

Appendix A. List of Certificated CLECs as of 12/31/09

**Indicates that the company did not respond to the Commission's data request.
^^Indicates that the company is in the process of canceling its certificate or has a pending bankruptcy.

^^1 800 RECONEX, Inc. d/b/a USTEL
A.R.C. Networks, Inc. d/b/a InfoHighway
AboveNet Communications, Inc.
Access Communications, LLC.
Access One, Inc.
Access Point, Inc.
AccuTel of Texas, Inc.
ACN Communication Services, Inc.
Advanced Telecom of South Florida, Inc.
**Advantage Group of Florida Communications, L.L.C.
Aero Communications, LLC
Affordable Phone Services, Inc. d/b/a High Tech Communications
Airespring, Inc.
ALEC, Inc.
Alternative Phone, Inc.
American Fiber Network, Inc.
American Fiber Systems, Inc.
American Telephone Company LLC
Americatel Corporation
ANEW Broadband, Inc. d/b/a INSTANTEL PHONE SERVICE
Astro Tel, Inc.
AT&T Communications of the Southern States, LLC d/b/a AT&T
ATC Outdoor DAS, LLC
Atlantic.Net Broadband, Inc.
ATN, Inc. d/b/a AMTEL NETWORK, INC.
Backbone Communications Inc.
Baldwin County Internet/DSSI Service, L.L.C.
Bandwidth.com CLEC, LLC
BCN Telecom, Inc.
Bellerud Communications, LLC
BellSouth Long Distance, Inc. d/b/a AT&T Long Distance Service
BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast
Benchmark Communications, LLC d/b/a Com One
BetterWorld Telecom LLC d/b/a BetterWorld Telecom
Birch Communications, Inc.
Birch Telecom of the South, Inc. d/b/a Birch Telecom d/b/a Birch d/b/a Birch Communications
Bright House Networks Information Services (Florida), LLC
Broadband Communities of Florida, Inc.
Broadband Dynamics, L.L.C.
BroadRiver Communication Corporation
Broadstar, LLC d/b/a PrimeCast
Broadview Networks, Inc.
Broadwing Communications, LLC
Brydels Communications, LLC
BT Communications Sales LLC
BTEL, Inc.
Budget PrePay, Inc. d/b/a Budget Phone
BudgeTel Systems, Inc.
BullsEye Telecom, Inc.
Business Telecom, Inc. d/b/a BTI
Campus Communications Group, Inc.
Cbeyond Communications, LLC
Centennial Florida Switch Corp.
**Ciera Network Systems, Inc.
City of Daytona Beach
City of Gainesville, a municipal corporation d/b/a GRUCom
City of Lakeland
City of Ocala
City of Quincy d/b/a netquincy d/b/a netquincy.com d/b/a www.netquincy.com
Cleartel Telecommunications, Inc. d/b/a Now Communications, also d/b/a VeraNet Solutions
Clective Telecom Florida, LLC.

Appendix A: List of Certificated CLECs as 12/31/09

CloseCall America, Inc
Cogent Communications of Florida LHC, Inc.
Comcast Business Communications, LLC d/b/a Comcast Long Distance
Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone
CommPartners, LLC
ComNet (USA) LLC
Comtech21, LLC
Comtel Telcom Assets LP d/b/a Excel Telecommunications
Comtel Telcom Assets LP d/b/a VarTec Solutions
Comtel Telcom Assets LP d/b/a VarTec Telecom
Conextel, Inc.
Cordia Communications Corp.
CoreTel Florida, Inc. d/b/a CoreTel
Covista, Inc.
Cox Florida Telcom, L.P. d/b/a Cox Communications d/b/a Cox Business d/b/a Cox
Custom Network Solutions, Inc.
Cypress Communications Operating Company, LLC
Dedicated Fiber Systems, Inc.
DeltaCom, Inc.
DG TEC, LLC
Dialtone Telecom, LLC
DIECA Communications, Inc. d/b/a Covad Communications Company
Digital Express, Inc.
DPI Teleconnect, L.L.C.
DRS C3 Systems, Inc.
DSCI Corporation
DSL Internet Corporation d/b/a DSLi
DSLnet Communications, LLC
DukeNet Communications, LLC
Easy Telephone Services Company
ElectroNet Intermedia Consulting, Inc.
Embarq Communications, Inc. d/b/a CenturyLink Communications
ENA Services, LLC
Enhanced Communications Network, Inc. d/b/a Asian American Association
Ernest Communications, Inc.
EveryCall Communications, Inc.
eVox Communications, LLC
Excelacom Light, LLC.
Express Phone Service, Inc.
ExteNet Systems, Inc.
Fast Phones, Inc. of Alabama
FiberLight, LLC
First Choice Technology, Inc.
First Communications, LLC
FL CLEC LLC
FLATEL, Inc.
FlatPhone, Inc. d/b/a FlatPhone
Florida Multi Media Services, Inc. d/b/a Florida Multi Media
Florida Phone Systems, Inc.
Florida Public Telecommunications Association, Inc.
Florida Telephone Services, LLC
Fonix Telecom, Inc.
Fort Pierce Utilities Authority d/b/a GigaBand Communications
FPL FiberNet, LLC
France Telecom Corporate Solutions L.L.C.
Frontier Communications of America, Inc.
Ganoco, Inc. d/b/a American Dial Tone
General Computer Services, Inc. d/b/a BeCruising Telecom
Georgia Public Web, Inc.
Global Capacity Group, Inc.
Global Connection Inc. of America (of Georgia)
Global Crossing Local Services, Inc.
Global Crossing Telemanagement, Inc.
Global NAPS, Inc.
Global Response Corporation
Globalcom Inc. d/b/a GCI Globalcom Inc.
Grande Communications Networks, Inc.
Granite Telecommunications, LLC
Great America Networks, Inc.
GTC Communications, Inc.
Harbor Communications, LLC

Appendix A: List of Certificated CLECs as 12/31/09

Hayes E Government Resources, Inc.
Home Town Telephone, LLC
Hotwire Communications, Ltd.
Hypercube Telecom, LLC
IDS Telcom Corp. d/b/a Cleartel Communications
IDT America, Corp. d/b/a IDT
Image Access, Inc. d/b/a NewPhone, Inc.
Image Access, Inc. d/b/a NewPhone, Inc.
inContact, Inc. d/b/a UCN
iNetworks Group, Inc.
Infotelecom, LLC
Intellicall Operator Services, Inc. d/b/a ILD
Intellifiber Networks, Inc.
Interactive Services Network, Inc. d/b/a ISN Telcom
InterGlobe Communications, Inc.
Intrado Communications Inc.
ITS Telecommunications Systems, Inc.
J C Telecommunication Co., LLC
Kenarl Inc. d/b/a Lake Wellington Professional Centre
Kentucky Data Link, Inc.
KG Communications, LLC d/b/a KG Communications
Kissimmee Utility Authority
Knology of Florida, Inc.
^^LecStar Telecom, Inc.
Level 3 Communications, LLC
LifeConnex Telecom, LLC
Lightyear Network Solutions, LLC
Litestream Holdings, LLC
^^Looking Glass Networks, Inc.
Madison River Communications, LLC d/b/a CenturyLink
Marco Island Cable, Inc.
Maryland TeleCommunication Systems, Inc.
Matrix Telecom, Inc. d/b/a Matrix Business Technologies also d/b/a Trinsic Communications
MCC Telephony of Florida, LLC
McGraw Communications, Inc.
MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services
McLeodUSA Telecommunications Services, Inc.
^^MET Communications, Inc.
Metropolitan Telecommunications of Florida, Inc. d/b/a MetTel
Micro Comm, Inc.
Midwestern Telecommunications, Incorporated
Mitel NetSolutions, Inc.
Momentum Telecom, Inc.
MULTIPHONE LATIN AMERICA, INC.
**National Telecom & Broadband Services, LLC
Navigator Telecommunications, LLC
NET TALK.COM, INC.
Network Operator Services, Inc.
Network Telephone Corporation d/b/a Cavalier Telephone d/b/a Cavalier Business Communications
Neutral Tandem Florida, LLC
New Edge Network, Inc. d/b/a New Edge Networks
New Horizons Communications Corp.
New Talk, Inc.
NextG Networks of NY, Inc. d/b/a NextG Networks East
Nexus Communications, Inc. d/b/a Nexus Communications TSI, Inc.
nii Communications, Ltd.
Norlight Telecommunications, Inc.
Norlight, Inc. d/b/a Cinergy Communications
Norstar Telecommunications, LLC
North American Telecommunications Corporation
North County Communications Corporation
NOS Communications, Inc. d/b/a International Plus d/b/a O11 Communications d/b/a The Internet Business Association d/b/a I Vantage Network Solutions

Appendix A: List of Certificated CLECs as 12/31/09

Novus Communications, Inc.
NuVox Communications, Inc. d/b/a NuVox
**OneStar Long Distance, Inc.
ONE SOURCE NETWORKS CLEC LLC
One Voice Communications, Inc.
OneTone Telecom, Inc.
Optical Telecommunications, Inc. d/b/a HControl Corporation d/b/a SH Services LLC
Orlando Telephone Company, Inc.
Pac West Telecomm, Inc.
PaeTec Communications, Inc.
Peerless Network of Florida, LLC
Pelzer Communications Corporation
Phone Club Corporation
Phone XP, L.L.C.
PNG Telecommunications, Inc. d/b/a PowerNet Global Communications d/b/a CrossConnect d/b/a Thr!ve Communications
Preferred Long Distance, Inc.
Primus Telecommunications, Inc.
ProfitLab, Inc.
Protection Plus of the Florida Keys, Inc. d/b/a ENGAGE COMMUNICATIONS
QuantumShift Communications, Inc.
QuikVoip, LLC
Qwest Communications Company, LLC
Reliance Globalcom Services, Inc.
ReTel Communications, Inc.
Rightlink USA, Inc.
Ring Connection, Inc.
RNK Inc. d/b/a RNK Communications Inc.
Sage Spectrum, LLC
Sage Telecom, Inc.
Sago Broadband, LLC
Sandhills Telecommunications Group, Inc. d/b/a SanTel Communications
Saturn Telecommunication Services Inc. d/b/a STS Telecom
SBC Long Distance, LLC d/b/a SBC Long Distance d/b/a AT&T Long Distance Servi Express Caracol d/b/a Telefonica Express
Shands Teaching Hospital and Clinics, Inc.
SIP Interchange Corporation
SKYNET360, LLC
SkyWay Telecom, Inc.
Smart City Networks, Limited Partnership
Smart City Solutions, LLC d/b/a Smart City Communications
Smart Network Solutions Communications Corp
SNC Communications, LLC
Solarity Communications LLC
Southeastern Services, Inc.
Southern Light, LLC
Southern Telecom, Inc. d/b/a Southern Telecom of America, Inc.
^^Southern Telcom Network, Inc.
Spectrotel, Inc.
Sprint Communications Company Limited Partnership
StarVox Communications, Inc.
Sterling Telecom Inc.
STS Telecom, LLC
Sun Tel USA, Inc.
Sunesys, LLC
Supra Telecommunications and Information Systems, Inc.
Syniverse Technologies, Inc.
T3 Communications, Inc. d/b/a Tier 3 Communications d/b/a Naples Telephone and d/b/a Fort Myers Telephone
Talk America Inc. d/b/a Cavalier Telephone d/b/a Cavalier Business Communications
Tallahassee Community College
TCG South Florida
TelCove Operations, Inc.
Tele Circuit Network Corporation
Telecom Management, Inc. d/b/a Pioneer Telephone
TeleDias Communications, Inc.
Telepak Networks, Inc.
Telovations Inc.

Appendix A: List of Certificated CLECs as 12/31/09

Telrite Corporation
Telscape Communications, Inc.
Tennessee Telephone Service, LLC d/b/a
Freedom Communications USA, LLC
^^Terra Telecommunications Corp.
The Boeing Company
The Other Phone Company, Inc. d/b/a
Cavalier Telephone d/b/a Cavalier
Business Communications
The Ultimate Connection, L.C. d/b/a
DayStar Communications
Think 12 Corporation d/b/a Hello Depot
Touchtone Communications Inc. of
Delaware
TQC Communications, Corp.
Trans National Communications
International, Inc.
Transparent Technology Services
Corporation d/b/a North Palm Beach
Telephone Company
Tristar Communications Corp.
tw telecom of florida l.p.
U.S. Metropolitan Telecom, LLC
US LEC of Florida, LLC d/b/a PAETEC
Business Services
US Telesis, Inc.
^^Universal Telecom, Inc.
Utility Board of the City of Key West d/b/a
Keys Energy Services
**VBNet, Incorporated
Verizon Avenue Corp.
Verizon Florida LLC
Verizon Select Services Inc.
Vixxi Solutions Inc.
VoDa Networks, Inc.
Wholesale Carrier Services, Inc.
WTI Communications, Inc.
XO Communications Services, Inc.
YMax Communications Corp.
Zone Telecom, Inc.

Appendix B. CLECs Providing Service				
Name	**Resale**	**Local Platform**	**Switch-Based**	**VoIP**
Access Communications, LLC.	X	X		
Access One, Inc.	X			
Access Point, Inc.	X	X		X
ACN Communication Services, Inc.		X		
Affordable Phone Services, Inc. d/b/a High Tech Communications	X			
Alternative Phone, Inc.	X			
American Fiber Network, Inc.	X	X		X
ANEW Broadband, Inc. d/b/a INSTANTEL PHONE SERVICE		X		X
Astro Tel, Inc.	X		X	X
AT&T Communications of the Southern States, LLC d/b/a AT&T	X		X	X
BCN Telecom, Inc.	X	X		
Bellerud Communications, LLC	X			
BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast			X	
Benchmark Communications, LLC d/b/a Com One	X			
BetterWorld Telecom LLC d/b/a BetterWorld Telecom	X			
Birch Communications, Inc.		X		
Birch Telecom of the South, Inc. d/b/a Birch Telecom d/b/a Birch d/b/a Birch Communications		X		
BLC Management LLC d/b/a/ Angles Communication Solutions	X			
Broadband Dynamics, L.L.C.	X			
Broadstar, LLC d/b/a PrimeCast				X
Broadview Networks, Inc.	X			X
Broadwing Communications, LLC			X	X
Budget PrePay, Inc. d/b/a Budget Phone	X	X		
BudgeTel Systems, Inc.	X			
BullsEye Telecom, Inc.		X		X
Business Telecom, Inc. d/b/a BTI	X	X	X	
Callis Communications, Inc.	X			X
Campus Communications Group, Inc.			X	
Cbeyond Communications, LLC				X
City of Daytona Beach	X			
City of Quincy d/b/a netquincy d/b/a netquincy.com d/b/a www.netquincy.com				X
CloseCall America, Inc	X	X		
Comtech21, LLC	X			X
Comtel Telcom Assets LP d/b/a Excel Telecommunications	X			
Covista, Inc.	X			
Cox Florida Telcom, L.P. d/b/a Cox Communications d/b/a Cox Business d/b/a Cox				X
Custom Network Solutions, Inc.	X			
DeltaCom, Inc.	X	X	X	
Dialtone Telecom, LLC	X			
DIECA Communications, Inc. d/b/a Covad Communications Company				X

Appendix B. CLECs Providing Service				
Name	**Resale**	**Local Platform**	**Switch-Based**	**VoIP**
DPI Teleconnect, L.L.C.	X	X		
DSL Internet Corporation d/b/a DSLi	X	X	X	X
Easy Telephone Services Company	X			
Embarq Communications, Inc. d/b/a CenturyLink Communications			X	X
ENA Services, LLC				X
Ernest Communications, Inc.	X	X		
EveryCall Communications, Inc.	X	X		
Express Phone Service, Inc.	X			
First Communications, LLC	X	X		
FLATEL, Inc.	X	X		
Florida Multi Media Services, Inc. d/b/a Florida Multi Media			X	X
Florida Phone Systems, Inc.	X			
Florida Telephone Services, LLC		X		X
France Telecom Corporate Solutions L.L.C.	X			
General Computer Services, Inc. d/b/a BeCruising Telecom				X
Global Connection Inc. of America (of Georgia)	X	X		
Global Crossing Local Services, Inc.	X			
Global Crossing Telemanagement, Inc.	X	X		
Global Response Corporation	X			
Granite Telecommunications, LLC	X	X		
Harbor Communications, LLC	X		X	
Hotwire Communications, Ltd.	X			X
Image Access, Inc. d/b/a NewPhone, Inc.	X			
Interactive Services Network, Inc. d/b/a ISN Telcom	X			X
InterGlobe Communications, Inc.	X			
Knology of Florida, Inc.			X	X
Level 3 Communications, LLC			X	
LifeConnex Telecom, LLC	X			
Lightyear Network Solutions, LLC		X		X
Litestream Holdings, LLC				X
Matrix Telecom, Inc. d/b/a Matrix Business Technologies also d/b/a Trinsic Communications	X	X		
MCC Telephony of Florida, LLC				X
MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services		X	X	
Metropolitan Telecommunications of Florida, Inc. d/b/a MetTel	X	X	X	X
Midwestern Telecommunications, Incorporated	X	X		
Mitel NetSolutions, Inc.	X			X
Momentum Telecom, Inc.		X		
Navigator Telecommunications, LLC	X			
Network Telephone Corporation d/b/a Cavalier Telephone d/b/a Cavalier Business Communications		X	X	
New Horizons Communications Corp.	X			
Nexus Communications, Inc. d/b/a Nexus Communications TSI, Inc.	X	X		

Appendix B. CLECs Providing Service				
Name	**Resale**	**Local Platform**	**Switch-Based**	**VoIP**
Norlight, Inc. d/b/a Cinergy Communications		X		
North American Telecommunications Corporation	X			X
NOS Communications, Inc. d/b/a International Plus d/b/a O11 Communications d/b/a The Internet Business Association d/b/a I Vantage Network Solutions	X			
NuVox Communications, Inc. d/b/a NuVox	X	X		
One Voice Communications, Inc.	X			
OneTone Telecom, Inc.	X			
Optical Telecommunications, Inc. d/b/a HControl Corporation d/b/a SH Services LLC				X
Orlando Telephone Company, Inc.			X	X
PaeTec Communications, Inc.	X			X
Phone Club Corporation	X			
Phone XP, L.L.C.	X			X
PNG Telecommunications, Inc. d/b/a PowerNet Global Communications d/b/a CrossConnect d/b/a Thr!ve Communications	X			
Preferred Long Distance, Inc.				X
QuantumShift Communications, Inc.	X			
QuikVoip, LLC				X
Qwest Communications Company, LLC				X
ReTel Communications, Inc.	X			
Rightlink USA, Inc.	X			
Ring Connection, Inc.	X			
RNK Inc. d/b/a RNK Communications Inc.			X	X
Sandhills Telecommunications Group, Inc. d/b/a SanTel Communications	X	X		
Saturn Telecommunication Services Inc. d/b/a STS Telecom	X	X	X	X
Servi Express Caracol d/b/a Telefonica Express	X			
Smart City Solutions, LLC d/b/a Smart City Communications		X		
SNC Communications, LLC		X		
Southeastern Services, Inc.	X			X
Spectrotel, Inc.	X			
Sprint Communications Company Limited Partnership			X	X
Sun Tel USA, Inc.	X	X		
T3 Communications, Inc. d/b/a Tier 3 Communications d/b/a Naples Telephone and d/b/a Fort Myers Telephone		X	X	
Talk America Inc. d/b/a Cavalier Telephone d/b/a Cavalier Business Communications		X		
Tele Circuit Network Corporation	X			
TeleDias Communications, Inc.	X			
Telovations Inc.				X
Tennessee Telephone Service, LLC d/b/a Freedom Communications USA, LLC	X			
The Other Phone Company, Inc. d/b/a Cavalier Telephone d/b/a Cavalier Business Communications		X		
The Ultimate Connection, L.C. d/b/a DayStar Communications	X		X	X

Appendix B. CLECs Providing Service				
Name	**Resale**	**Local Platform**	**Switch-Based**	**VoIP**
Think 12 Corporation d/b/a Hello Depot	X			
TQC Communications, Corp.	X			
Trans National Communications International, Inc.	X			
Tristar Communications Corp.	X			
tw telecom of florida l.p.			X	
U.S. Metropolitan Telecom, LLC	X	X		X
US LEC of Florida, LLC d/b/a PAETEC Business Services	X		X	X
WTI Communications, Inc.	X			
XO Communications Services, Inc.	X		X	X
Zone Telecom, Inc.	X			X
Total # of Companies = 128	**87**	**42**	**25**	**47**

Appendix C. Number of CLEC Providers In Each Exchange

Exchange	CLEC Residential Providers		CLEC Business Providers	
	(Dec-08)	(Dec-09)	(Dec-08)	(Dec-09)
Alachua	4	1	2	1
Alford	4	3	7	5
Alligator Point	0	1	0	0
Altha	0	0	0	1
Apalachicola	0	0	1	1
Apopka	11	7	20	20
Arcadia	9	4	12	14
Archer	12	11	7	6
Astor	1	0	6	3
Avon Park	9	4	13	13
Baker	3	3	4	5
Baldwin	5	7	8	9
Bartow	7	4	14	18
Belle Glade	22	21	19	20
Belleview	11	4	16	14
Beverly Hills	5	1	9	11
Blountstown	2	0	0	1
Boca Raton	30	28	43	39
Boca Grande	1	2	3	5
Bonifay	8	6	7	7
Bonita Springs	9	5	21	22
Bowling Green	2	2	7	5
Boynton Beach	29	23	32	29
Bradenton	11	9	25	23
Branford	3	0	2	1
Bristol	0	0	0	0
Bronson	20	15	6	7
Brooker	1	0	0	1
Brooksville	21	17	20	20
Bunnell	16	12	14	14
Bushnell	9	5	9	14
Callahan	3	0	3	4
Cantonment	16	15	12	13
Cape Coral	6	4	18	17
Cape Haze	3	0	9	8
Carrabelle	0	0	0	0
Cedar Key	4	4	6	6
Celebration	1	2	8	7
Century	10	11	4	5
Chattahoochee	2	1	0	1
Cherry Lake	4	1	3	3
Chiefland	18	15	12	10
Chipley	18	12	12	10

Appendix C. Number of CLEC Providers In Each Exchange

Exchange	CLEC Residential Providers		CLEC Business Providers	
	(Dec-08)	(Dec-09)	(Dec-08)	(Dec-09)
Citra	1	1	1	1
Clearwater	13	9	31	34
Clermont	9	6	18	16
Clewiston	8	6	9	10
Cocoa	30	21	28	25
Cocoa Beach	17	13	20	19
Coral Springs	30	22	34	26
Cottondale	7	4	4	6
Crawfordville	5	3	10	13
Crescent City	3	1	1	1
Crestview	7	4	13	13
Cross City	8	12	8	7
Crystal River	6	2	16	14
Dade City	8	4	13	14
Daytona Beach	33	26	37	32
DeBary	17	17	18	15
Deerfield Beach	27	22	35	30
Deland	25	19	23	21
DeLeon Springs	10	10	7	7
Delray Beach	31	23	35	30
Destin	7	3	14	17
DeFuniak Springs	8	5	10	11
Dowling Park	1	0	0	0
Dunnellon	21	13	12	10
East Point	0	0	0	0
East Orange	11	11	15	13
Eau Gallie	24	18	26	26
Englewood	4	1	20	17
Eustis	11	6	11	13
Everglades	0	0	2	3
Fernadina Beach	25	19	17	16
Flagler Beach	12	6	11	11
Florahome	2	0	1	1
Florida Sheriffs' Boys Ranch	1	0	1	0
Forest	4	2	8	8
Ft. Meade	6	4	10	8
Ft. Myers	16	14	25	26
Ft. White	3	1	1	1
Ft. Pierce	30	22	26	23
Freeport	2	3	5	5
Frostproof	6	4	10	10
Ft. Lauderdale	47	38	47	49
Ft. Myers Beach	4	4	12	13

Appendix C. Number of CLEC Providers In Each Exchange

Exchange	CLEC Residential Providers		CLEC Business Providers	
	(Dec-08)	(Dec-09)	(Dec-08)	(Dec-09)
Ft. Walton Beach	10	7	18	19
Gainesville	35	30	29	27
Geneva	5	4	8	8
Glendale	2	2	0	1
Graceville	17	12	11	9
Grand Ridge	6	4	4	4
Green Cove Springs	20	12	15	15
Greensboro	1	1	0	0
Greenville	6	4	4	4
Greenwood	4	3	3	2
Gretna	1	0	0	0
Groveland	7	3	11	11
Gulf Breeze	13	13	17	12
Haines City	10	7	21	22
Hastings	4	1	3	1
Havana	18	18	8	6
Hawthorne	16	16	6	4
High Springs	2	0	2	2
Hilliard	2	0	1	1
Hobe Sound	16	11	16	14
Holley-Navarre	15	14	11	9
Hollywood	39	31	42	39
Homestead	36	28	29	26
Homosassa	6	1	10	13
Hosford	0	0	0	0
Howey-in-the-Hills	1	1	3	1
Hudson	6	2	18	19
Immokalee	6	3	13	13
Indian Lake	0	0	3	4
Indiantown	1	2	2	3
Interlachen	1	1	2	2
Inverness	6	2	11	13
Jacksonville Beach	23	19	22	21
Jacksonville	42	38	42	43
Jasper	1	0	2	2
Jay	12	11	7	4
Jennings	1	0	1	1
Jensen Beach	16	10	21	22
Julington	1	16	1	27
Jupiter	26	0	32	0
Keaton Beach	0	0	0	3
Kenansville	0	22	3	31
Keys	25	14	36	9

Appendix C. Number of CLEC Providers In Each Exchange

Exchange	CLEC Residential Providers		CLEC Business Providers	
	(Dec-08)	(Dec-09)	(Dec-08)	(Dec-09)
Keystone Heights	15	0	11	0
Kingsley Lake	0	9	0	23
Kissimmee	12	4	25	10
La Belle	8	5	13	15
Lady Lake	8	21	15	16
Lake City	26	6	18	18
Lake Wales	11	1	17	2
Lake Butler	2	5	2	23
Lakeland	13	6	24	13
Lake Placid	7	1	12	0
Lawtey	5	2	3	3
Lee	5	5	6	5
Leesburg	16	7	15	17
Lehigh Acres	9	5	18	16
Live Oak	3	0	3	2
Lake Buena Vista	1	2	6	6
Luraville	1	0	0	0
Lynn Haven	18	12	11	9
Macclenny	2	1	3	2
Madison	10	3	12	11
Malone	4	3	1	2
Marco Island	3	3	13	14
Marianna	11	4	12	12
Maxville	9	9	6	6
Mayo	2	0	1	1
McIntosh	3	1	2	1
Melbourne	33	29	27	25
Melrose	1	0	1	1
Miami	49	44	50	51
Micanopy	4	5	5	5
Middleburg	21	18	19	17
Milton	24	17	14	12
Molino	0	0	0	1
Monticello	9	7	9	10
Montverde	2	0	3	3
Moore Haven	5	4	7	5
Mount Dora	10	8	15	16
Mulberry	6	2	13	14
Munson	6	8	1	2
Myakka	3	0	5	6
Naples	12	8	23	24
North Cape Coral	4	5	15	16
Newberry	14	16	6	8

Appendix C. Number of CLEC Providers In Each Exchange

Exchange	CLEC Residential Providers		CLEC Business Providers	
	(Dec-08)	(Dec-09)	(Dec-08)	(Dec-09)
North Naples	6	5	16	20
North Ft. Myers	6	4	16	15
North Dade	37	32	35	33
North Port	3	2	13	14
New Port Richey	7	5	22	23
New Smyrna Beach	20	17	20	19
Oak Hill	6	4	6	6
Ocala	15	8	20	20
Ocklawaha	4	2	4	5
Okeechobee	12	5	12	16
Old Town	10	12	7	6
Orange Springs	1	0	0	0
Orange City	6	4	18	16
Orange Park	35	29	23	24
Orlando	47	37	51	47
Oviedo	18	17	27	25
Pace	19	13	12	12
Pahokee	17	15	14	10
Palatka	19	17	16	16
Palm Coast	19	13	21	19
Palmetto	7	5	18	21
Panacea	2	1	2	3
Panama City	29	21	25	20
Paxton	1	0	0	1
Pensacola	39	31	30	26
Perrine	25	24	31	27
Perry	1	0	1	1
Pierson	14	6	12	11
Pine Island	2	0	7	10
Plant City	10	6	20	19
Panama City Beach	19	13	21	18
Ponte Vedra Beach	12	8	18	17
Poinciana	0	0	1	1
Polk City	2	1	12	10
Pomona Park	11	12	4	3
Pompano Beach	33	31	40	35
Ponce de Leon	5	4	4	5
Port St. Joe	2	1	1	1
Port Charlotte	9	2	18	17
Port St. Lucie	32	27	33	28
Punta Gorda	2	0	17	18
Quincy	2	1	0	0
Raiford	0	0	0	0

Appendix C. Number of CLEC Providers In Each Exchange

Exchange	CLEC Residential Providers		CLEC Business Providers	
	(Dec-08)	(Dec-09)	(Dec-08)	(Dec-09)
Reedy Creek	2	3	15	18
Reynolds Hill	6	5	0	0
Salt Springs	2	1	4	5
San Antonio	2	1	8	8
Sanderson	0	1	0	1
Sanford	34	28	33	31
Santa Rosa Beach	2	1	10	8
Sarasota	15	6	29	27
Seagrove Beach	4	4	6	6
Sebastian	25	17	22	16
Sebring	11	6	18	15
Shalimar	4	3	12	9
Silver Springs Shores	8	5	9	11
Sanibel-Captiva Island	0	1	10	11
Sneads	5	3	5	5
Sopchoppy	3	1	2	2
Spring Lake Hills	3	2	7	9
St. Cloud	10	6	16	19
St. Johns	36	27	29	26
St. Marks	3	1	1	2
Starke	10	7	13	12
St. Petersburg	15	9	30	29
Stuart	24	15	33	25
Sunny Hills	11	9	4	4
Tallahassee	23	14	23	23
Tampa	22	18	34	36
Tarpon Springs	5	3	21	23
Tavares	4	2	12	14
The Beaches	0	0	0	0
Titusville	25	21	22	19
Trenton	18	13	10	8
Trilacoochee	5	5	7	7
Tyndall AFB	0	1	0	0
Umatilla	8	5	5	8
Valparaiso	4	3	13	13
Venice	6	4	21	22
Vernon	11	9	6	5
Vero Beach	31	24	30	25
Waldo	1	0	1	1
Walnut Hill	0	1	0	0
Wauchula	8	5	10	11
Weekiwachee Springs	18	12	21	22
Weirsdale	5	4	5	4

Appendix C. Number of CLEC Providers In Each Exchange				
	CLEC Residential Providers		CLEC Business Providers	
Exchange	(Dec-08)	(Dec-09)	(Dec-08)	(Dec-09)
Welaka	12	11	6	5
Wellborn	2	0	0	0
Westville	4	2	4	4
Wewahitchka	0	0	0	0
White Springs	1	0	1	1
Wildwood	8	4	13	13
Williston	11	7	11	10
Windermere	5	4	13	12
Winter Haven	13	8	22	21
Winter Garden	16	11	23	22
Winter Park	17	10	26	27
West Kissimmee	4	3	18	19
West Palm Beach	47	42	44	45
Yankeetown	7	6	7	7
Youngstown-Fountain	11	10	7	5
Yulee	14	14	9	10
Zephyr Hills	7	3	18	17
Zolfo Springs	6	3	3	4

Appendix D. Summary of Complaints Filed By CLECS						
CLEC	**ILEC**	**Date Opened**	**Complaint or Docket Number**	**Description**	**Date Closed**	**Resolution**
AstroTel	Verizon	01/05/09	0815954T	Complaint against Verizon for not fulfilling orders in a timely manner	01/07/09	The order in question was completed and a Service Activation Report was sent to AstroTel
AstroTel	Verizon	03/24/09	0845686T	Complaint against Verizon for not fulfilling orders in a timely manner	04/16/10	Verizon received confirmation that the problematic circuits were functional
BudgeTel	BellSouth AT&T	04/23/09	0851360T	Complaint against AT&T for not fulfilling orders in a timely manner	05/28/09	AT&T confirmed new circuits were operational
dPi Teleconnect	BellSouth AT&T	05/01/09	090258-TP	Complaint stating that BellSouth owes credits to dPi dating between 2003-2007 for promotions	04/05/10	dPi filed a Voluntary Dismissal of Complaint with Prejudice
AstroTel	Verizon	05/07/09	0853693T	Complaint against Verizon for not fulfilling orders in a timely manner	06/03/09	Verizon admitted technical error and completed installation
AstroTel	Verizon	06/08/09	0859308T	Complaint that Verizon failed to correct a service error in a timely manner	06/08/10	Verizon corrected the issue and confirmed that customer was satisfied
AstroTel	Verizon	06/09/09	0860106T	Complaint against Verizon for not fulfilling orders in a timely manner	06/26/09	Errors on the part of both companies resulted in the delay; service was restored
AstroTel	Verizon	06/16/09	0861502T	Complaint against Verizon for not fulfilling orders in a timely manner	07/02/09	Errors on the part of both companies resulted in the delay; service was restored

Appendix D. Summary of Complaints Filed By CLECS

CLEC	ILEC	Date Opened	Complaint or Docket Number	Description	Date Closed	Resolution
AstroTel	BellSouth AT&T	07/14/09	0869785T	Complaint against BellSouth for not fulfilling orders in a timely manner	07/30/09	BellSouth and AstroTel worked together to properly reissue service order
AstroTel	Verizon	07/17/09	0870635T	Complaint against Verizon for not fulfilling orders in a timely manner	08/06/09	Verizon could not locate customer's apartment initially to fulfill order; service has been reinstated
AstroTel	Verizon	08/04/09	0875998T	Complaint against Verizon for failing to reinstate service in a timely manner	08/05/09	Verizon was able to correct the issue and reinstate service
AstroTel	Verizon	10/13/09	0895543T	Complaint against Verizon for not fulfilling orders in a timely manner	11/03/09	A Verizon system error created the delay and has since been rectified
AstroTel	Verizon	11/10/09	0903551T	Complaint against Verizon for not fulfilling orders in a timely manner	12/15/09	The Verizon tech was unable to initially access the customer for installation
BudgeTel	BellSouth AT&T	11/12/09	0903673T	Complaint against BellSouth for not fulfilling orders in a timely manner	12/10/09	Installation completed on 11/16/09; no explanation provided
AstroTel	BellSouth AT&T	12/03/09	0908572T	Complaint against BellSouth for not fulfilling orders in a timely manner	12/05/09	Wrong number provided for BellSouth's administration Center; staff provided instructions to AstroTel for requesting the order

Appendix E. Florida Lifeline Eligibility Criteria

Eligibility for participation in the Lifeline and Link-Up programs is determined by subscriber enrollment in any one of the following qualifying programs:

Program-Based Criteria

- Temporary Cash Assistance (TCA)
- National School Lunch's free lunch program
- Temporary Assistance to Needy Families (TANF)
- Food Stamps
- Medicaid
- Low-Income Home Energy Assistance Program (LIHEAP)
- Supplemental Security Income (SSI)
- Federal Public Housing Assistance (Section 8)
- Bureau of Indian Affairs programs:
  - Tribal TANF
  - Head Start Subsidy
  - National School Lunch Program

Income-Based Criteria

- 150 percent of the Federal Poverty Guidelines[241, 242]

[241] Legislation was passed during the 2008 session that increased Lifeline eligibility in Florida from 135 percent of the Federal Poverty Guidelines to 150 percent, effective July 1, 2009.
[242] Effective July 1, 2010, Legislation passed during the 2009 session permits wireless ETCs to offer Lifeline service to customers that qualify under the 150 percent of Federal Poverty Guideline criterion.

Glossary	
3G	*Third-generation technology*. Used in the context of mobile telephone standards. 3G networks are wide area cellular telephone networks that evolved to accommodate high-speed Internet access and video telephony.
4G	*Fourth-generation technology*. 4G is the stage of broadband mobile communications that will supersede 3G. It is expected that end-to-end IP and high-quality streaming video will be among 4G's distinguishing features.
911 / E911	*Basic 911 / Enhanced 911*. Basic 911 systems forward all emergency 911 calls to the appropriate public safety answering point (PSAP). E911 systems are able to automatically forward the caller's location (ALI) and call back number (ANI) to the appropriate PSAP.
Access Line	The circuit or channel between the demarcation point at the customer's premises and the serving end or Class 5 central office.
ARRA	*The American Recovery and Reinvestment Act of 2009.*
Broadband	A term describing evolving digital technologies offering consumers integrated access to voice, high-speed data services, video on demand services, and interactive information delivery services.
Circuit	A fully operational two-way communications path.
CLEC	*Competitive Local Exchange Company*. Any company certificated by the Florida Public Service Commission to provide local exchange telecommunications service in Florida on or after July 1, 1995.
Coaxial Cable	A high-capacity cable widely used in voice, video, and data applications. Coaxial cable includes one physical channel that carries the signal surrounded (after a layer of insulation) by another concentric physical channel, both running along the same axis. The outer channel serves as a ground and a shield against external interference.
Commercial Agreement	A contractual arrangement between an ILEC and CLEC to obtain access to network components or other services not required pursuant to state or federal law.
CMRS	*Commercial Mobile Radio Service.* Technical term for a wireless communications provider.
DOCSIS	*Data Over Cable Service Interface Specification.* DOCSIS defines the communications and operation support interface requirements for a data over cable system.

Glossary	
DSL	*Digital Subscriber Line.* A family of technologies (including variations such as asynchronous DSL, high bit-rate DSL, very high bit-rate DSL, etc.) that provide high-speed Internet access. DSL is typically provided by traditional wireline telecommunications companies via a copper loop to the customer's premises. DSL is the principal competition of cable modems.
ETC	*Eligible Telecommunications Carrier*. An ETC designated under Section 214(e), F.S., is eligible to receive specific federal universal service support.
Exchange	An ILEC's central office or group of central offices, together with the subscribers' stations and lines connected thereto, forming a local system which furnishes means of telephonic communication without toll charges between subscribers within a specified area, usually a single city, town, or village.
FiOS	FiOS is Verizon's suite of voice, video, and broadband services provisioned over fiber optic cable directly to the customer premises. FiOS can currently provide Internet access with maximum download speed of 50 Mbps and upload speed of 20 Mbps.
FTTH	*Fiber-to-the-home.* The fiber deployment architecture in which optical fiber is carried all the way to the customer premises.
FTTN	*Fiber-to-the-node.* A hybrid network architecture involving optical fiber from the carrier network, terminating in a neighborhood cabinet which converts the signal from optical to electrical. The connection from the cabinet to the user premises is over twisted copper pair or coaxial cable.
ILEC	*Incumbent Local Exchange Company*. Any company certificated by the FPSC to provide local exchange telecommunications service in Florida on or before June 30, 1995, as their successor companies.
Intermodal	The use of more than one type of technology or carrier to transport telecommunications services from origination to termination. When referring to local competition, intermodal refers to nonwireline voice communications such as wireless or VoIP.
interMTA	Refers to traffic outside of the Metropolitan Trading Area (MTA). A MTA is an area defined by the FCC for the purpose of issuing wireless licenses. The U.S. is broken down into 51 MTAs.
Internet Protocol (IP)	The term refers to all the standards that keep the Internet functioning. IP describes software that tracks the Internet address of nodes, routes outgoing messages, and recognizes incoming messages.
IXC	*Intrastate Interexchange Company*. Any entity that provides intrastate interexchange telecommunications services.

Glossary	
Local Loop	See Access Line.
Local Platform	The commercial replacement for UNE-P. The local platform provides an end-to-end circuit. See UNE-P.
LTE	*Long Term Evolution.* LTE is a technology standard for the future provision of 4G wireless services.
NBP	*National Broadband Plan.*
OSS	*Operations Support System.* Methods and procedures (mechanized or not) that directly support the daily operation of the telecommunications infrastructure. The average local exchange company has hundreds of OSSs, including automated systems supporting order submission, order processing, line assignment, line testing, and line billing.
Peer-to-peer	Any distributed network architecture that is composed of participants that make a portion of their resources (such as processing power, disk storage or network bandwidth) directly available to other network participants, without the need for central coordination instances (such as servers or stable hosts). Peers are both suppliers and consumers of resources, in contrast to the traditional client–server model where only servers supply, and clients consume.
Public Switched Telephone Network	The network that provides switching and transmission facilities to the general public.
Resale	The 1996 Act requires ILECs to offer to competing telecommunications carriers, at wholesale rates, any telecommunications service that the ILEC provides to its customers at retail rates, so that the competing carriers can resell the services.
Switch	A mechanical, electrical, or electronic device that opens or closes circuits, completes or breaks an electrical path, or selects paths or circuits.
Switched Access	Local exchange telecommunications company-provided exchange access services that offer switched interconnections between local telephone subscribers and long distance or other companies. Long distance companies use switched access for origination and termination of user-dialed calls.

Glossary	
Tariff	Historically, a tariff provides the rates, terms, and conditions under which regulated services are provided and also states the general obligations of the company and customers. Tariffs are subject to review by regulatory agencies and must be followed by the common carrier to ensure nondiscrimination between customers. In Florida, statutory change enacted in 2009 no longer require tariffs to be filed and approved by the FPSC. Instead, ILECs and CLECs are permitted to publish rates, terms and conditions of service electronically.
Telecommunications Act of 1996 (the 1996 Act)	The federal Telecommunications Act of 1996 established a national framework to enable CLECs to enter the local telecommunications marketplace.
TRRO	*Triennial Review Remand Order*. The FCC released the TRRO in February 2005. In this Order, the FCC eliminated unbundled local switching as a UNE, effective March 11, 2005, with a transition period extending until March 11, 2006. This decision effectively eliminated the combination of local elements known as Unbundled Network Element Platform. In its place, the ILECs continue to provide the same service but at higher market-based rates, a service referred to as local platform.
TRS	*Telecommunications Relay System.* TRS enables a person who is deaf or hard of hearing to access the nation's telephone system to communicate with voice telephone users through a relay provider and a communications assistant.
UNE	*Unbundled Network Element*. The Telecommunications Act of 1996 requires that the ILECs unbundle certain network elements and make them available to CLECs. UNEs are defined as physical and functional elements of the network, for example, Network Interface Devices, local loops and subloops, OSSs, etc.
U-verse	U-verse is the brand name of AT&T for a group of services provided via Internet Protocol, including television service, Internet access, and voice telephone service. Similar to Verizon's FiOS service, AT&T's U-verse is deployed using fiber optic cable.
Universal Service	This term describes the financial support mechanisms that constitute the federal universal service fund. This fund provides compensation to telephone companies or other communications entities for providing access to telecommunications services at reasonable and affordable rates throughout the country, including in rural, insular, and high-cost areas, and to public institutions.
VoIP	*Voice over Internet Protocol*. The technology used to transmit voice conversations over a data network using Internet Protocol.
Wi-Fi	Wi-Fi is a standard originally licensed by the Wi-Fi Alliance to describe the underlying technology of wireless local area networks (WLAN) based on the specific methods and techniques of wireless local area network operation.

Glossary	
WiMAX	*Worldwide Interoperability for Microwave Access.* Defined by the WiMAX Forum, formed in April 2001, to promote conformance and interoperability. The Forum describes WiMAX as a standards-based technology enabling the delivery of last mile wireless broadband access as an alternative to cable and DSL.
Wireline	A term used to describe the technology used by a company to provide telecommunications services. Wireline is synonymous with "landline" or land-based technology.