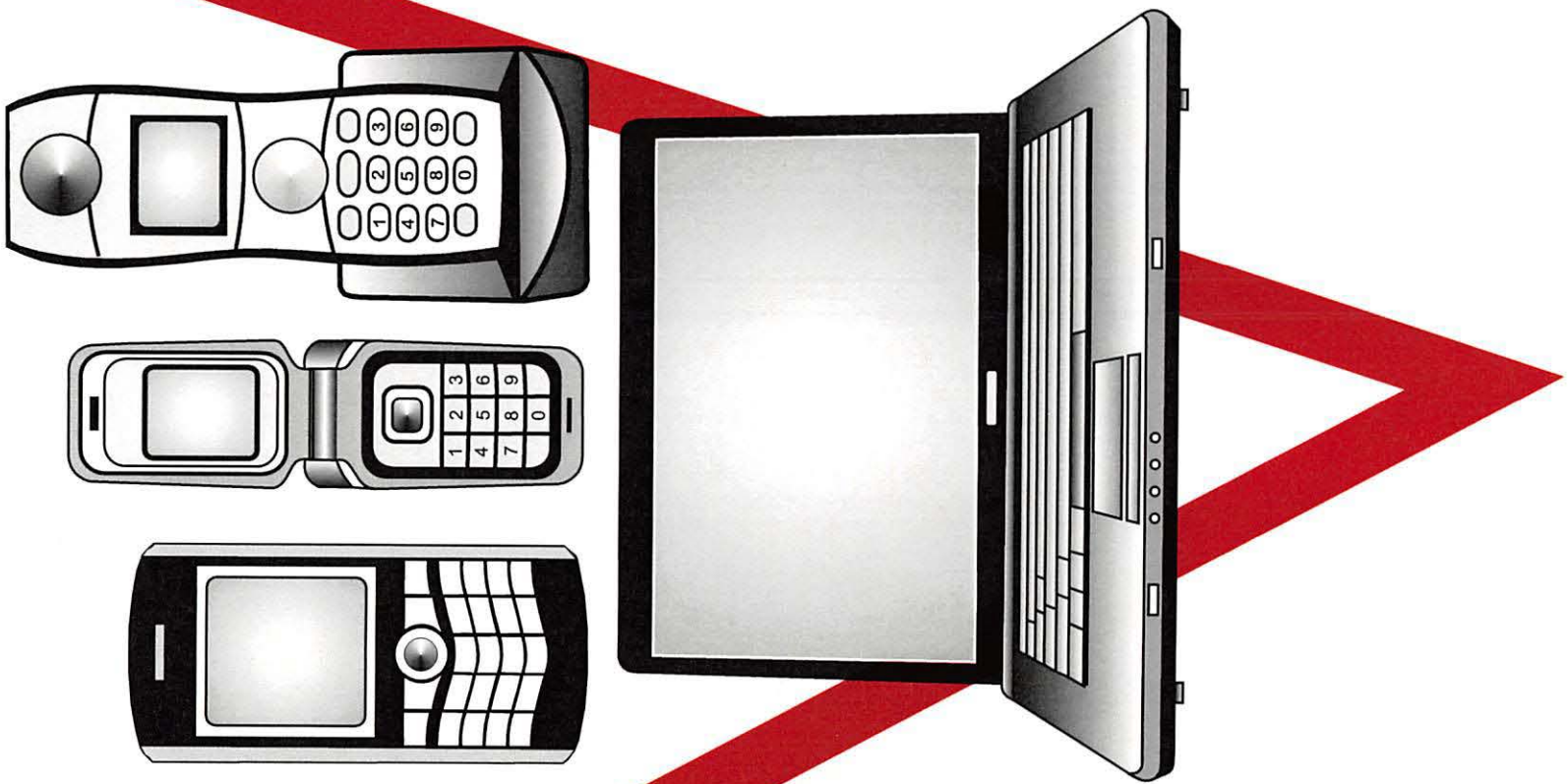
FLORIDA PUBLIC SERVICE COMMISSION

REPORT ON THE STATUS OF

COMPETITION

AS OF DECEMBER 31, 2007

IN THE TELECOMMUNICATIONS INDUSTRY



REPORT ON THE STATUS OF COMPETITION IN THE TELECOMMUNICATIONS INDUSTRY

As of December 31, 2007

This report was prepared by the Florida Public Service Commission's
Division of Competitive Markets and Enforcement

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LIST OF FIGURES AND TABLES

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LIST OF ACRONYMS

3G	Third Generation (wireless)
4G	Fourth Generation (wireless)
ADSL	Asynchronous Digital Subscriber Line
ARMIS	Automated Reporting Management Information System
BBR	Big Bend Regional Healthcare Information Organization
BPL	Broadband Over Power Line
Bus	Business
CDC	Centers for Disease Control
CDMA	Code Division Multiple Access
CLEC	Competitive Local Exchange Company
CO	Central Office
COLR	Carrier of Last Resort
DACS	Department of Agriculture and Consumer Services
DCF	Department of Children and Families
DOCSIS	Digital Over Cable Service Interface Specifications
DSL	Digital Subscriber Line
ETC	Eligible Telecommunications Carrier
EVDO	Evolution Data Optimization
F.A.C.	Florida Administrative Code
FCC	Federal Communications Commission
FCTA	Florida Cable Telecommunications Association
FiOS	Verizon trademark name for its fiber-to-the-home package of services
FNPRM	Further Notice of Proposed Rulemaking
FPSC	Florida Public Service Commission
F.S.	Florida Statutes
FTTC	Fiber-to-the-Curb
FTTH	Fiber-to-the-Home
FTTN	Fiber-to-the-Node
Gbps	Gigabits per second
GIS	Geographic Information System
HT	Hawaiian Telcom
ILEC	Incumbent Local Exchange Company
IP	Internet Protocol
IP CTS	Internet Protocol Captioned Relay Service
ITS	Indiantown Telephone Company
IXC	Interexchange Telecommunications Company
kbps	kilobits per second
LEC	Local Exchange Company
LTE	Long Term Evolution
Mbps	Megabits per second
MDU	Multidwelling Units
MOU	Memorandum of Understanding
NECA	National Exchange Carrier Association

NEFCOM	Northeast Florida Communications Company
NPRM	Notice of Proposed Rulemaking
ONU	Optical Network Unit
OPC	Office of Public Counsel
OSS	Operations Support System
PSTN	Public Switched Telephone Network
Res	Residential
SDSL	Symmetric Digital Subscriber Line
SEEM	Self-Effectuating Enforcement Mechanism
SGP	Service Guarantee Program
SQM	Service Quality Measurement
TDD	Telecommunications Devices for the Deaf
TIA	Telecommunications Industry Association
TRO	Triennial Review Order
TRRO	Triennial Review Remand Order
TRS	Telecommunications Relay Service
UNE	Unbundled Network Elements
UNE-P	Unbundled Network Element-Platform
USF	Universal Service Fund
VCI	Vilaire Communications, Inc.
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. On February 18, 2008, data requests were sent to the 10 incumbent local exchange companies (ILECs) and 370 competitive local exchange companies (CLECs) certificated by the Commission to operate in Florida, requesting data as of June 30, 2007, and December 31, 2007. The two periods were requested in order to accommodate both historical and future analyses. This report covers the period June 1, 2006, through December 31, 2007.

WIRELINE COMPETITION

The following market share data relates exclusively to the incumbent local exchange company and competitive local exchange company wireline market and does not reflect the significant number of wireless and Voice-over-Internet-Protocol (VoIP) subscribers in Florida. Significant findings relating to the wireline market as of December 2007 include the following:

- CLECs provided service with a combined (residential and business) market share of 11 percent, a decrease from 17 percent in June 2006.
- Total ILEC access lines decreased by 8 percent. This percentage reflects a 13 percent decrease in residential lines and a 2 percent increase in business lines.
- Total CLEC access lines decreased by 47 percent. This decline reflects a 41 percent decrease in residential lines and a 49 percent decrease in business lines.

Residential

- CLEC residential market share is 5 percent, a decrease from 7 percent in 2006.
- Residential access lines decreased 41 percent for the CLECs.[1]
- Residential access lines declined 10 percent for AT&T, 19 percent for Verizon, and 14 percent for Embarq.
- Residential access lines declined 5 percent for the rural ILECs. This decline follows a 7 percent increase in lines in 2006.

[1] The counting of ILEC-affiliated CLEC access lines has changed for this edition of the report. ILEC-affiliated CLEC access lines are reflected as ILEC lines if provided to end users within the affiliate ILEC's territory and as CLEC lines if serving end users outside the affiliate company territory.

Business

- CLEC business market share is 20 percent, a decrease from 33 percent in 2006.
- CLEC business access lines declined by 693,415 access lines.
- Business access lines decreased for Embarq, Verizon, and the rural ILECs.[2]

The reduction of CLEC residential market share and residential access lines and the decline in the number of CLEC providers can be attributed to several factors. The first is the growing impact of intermodal competition, manifested by increases in VoIP service subscribers and by substitution of wireless service as the primary household voice service. In addition, there are lingering effects of FCC decisions relating to the availability of certain unbundled network elements that were not fully reflected in the data for 2006. Finally, the acquisitions of large CLECs by both AT&T and Verizon are reflected in this report. Those access lines (and those of the Embarq affiliated CLEC) are now accounted for by assigning them as either ILEC or CLEC lines on the basis of whether they serve customers within the affiliated ILEC territory or outside the affiliated ILEC territory. No adjustment was made in 2006 since not all of those transitions had been in place throughout the reporting period.

Intermodal Competition

Wireless, VoIP, and broadband services compete with traditional wireline service and represent a growing portion of today's communications market in Florida. These services are not subject to FPSC jurisdiction, and Florida-specific data are not readily available. Some CLECs reported VoIP lines in response to the 2008 FPSC Local Competition data request; however, several certificated CLECs elected not to respond to the request, citing the lack of FPSC jurisdiction over VoIP services. One ILEC provided VoIP data. Highlights relating to VoIP, wireless, and broadband services include:

Wireless

- Florida wireless subscribership numbered approximately 15.3 million in June 2007.
- The Centers for Disease Control (CDC) estimate nearly 15.8 percent of U.S. households are wireless-only. The CDC estimate for the South region of the U.S is 17.1 percent.[3]

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[2] As a result of combining in-territory access lines of AT&T's former CLEC with its ILEC access lines, AT&T's combined business access lines reflect an increase from 2006 levels. However, when comparing ILEC-only and former CLEC-only access lines to 2006 levels, each have declined.

[3] Stephen J. Blumberg and Julian V. Luke, "Wireless Substitution: Early Release of Estimates from the National Health Review Survey, June-December 2007," Centers for Disease Control, National Center for Health Statistics, May 14, 2008, p.1 and Table 1, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200805.htm>, accessed on May 16, 2008.

VoIP

- There are an estimated 1 million residential VoIP subscribers in Florida, an increase over the 662,000 estimated in 2006.
- Florida CLECs reported 85,534 VoIP lines to the FPSC in response to its 2008 Local Competition data request.
- The Florida Cable Telecommunications Association reported 748,143 residential cable telephony subscribers as of December 2007.

Broadband

- Federal Communications Commission (FCC) statistics show that Florida's broadband access line count reached approximately 6.3 million as of June 2007, up from 4.4 million the prior year.
- Florida ranks fourth nationally in terms of states with the most high-speed connections.
- As of the fourth quarter 2007, approximately 78 percent of Florida Internet subscribers with wireline phones had adopted broadband access.
- Wireless broadband services represent the fastest growing segment of the broadband market.

Florida's communications market continues to evolve as new technologies and services become more widely accepted. Estimates of wireless substitution for wireline service have increased from prior years, and this trend is expected to continue in the near future. In the most recent reporting period, Florida cable companies expanded the number of markets in which they offer voice services. Finally, Vonage, a nationally known VoIP provider, reported an increased number of Florida subscribers since the last edition of the report; however, that number was filed as confidential. These facts, coupled with continued residential access line losses by ILECs, suggest an active market for voice communications services in many areas of Florida.

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CHAPTER I. INTRODUCTION AND BACKGROUND

Chapter 364, F.S., sets forth the principles by which the Florida Public Service Commission (FPSC or 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 Voice-over-Internet-Protocol (VoIP) services.

Chapter 364 requires the Commission to prepare and to 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 E.

An amendment to Section 364.386, F.S., in 2007 changed the due date of this report from December 1, 2007, to August 1, 2008, and each August 1 thereafter. Because of the change in reporting deadlines, a report was not produced in 2007. In order to maintain consistency in the reporting of data for previous and future editions, data for this report was collected from June 1, 2006 through December 31, 2007.

As of December 31, 2007, 10 ILECs and 370 CLECs were certificated by the Commission to operate in Florida.

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. Unlike the ILECs, CLECs are not required to file tariffs for Commission acknowledgment. Instead, 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 they provide basic local telecommunications services, CLECs 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."

2. Federal Telecommunications Act of 1996

The federal Telecommunications Act of 1996 (the 1996 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." 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 or new technologies to compete against traditional wireline providers for a share of the market.

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. Because ILECs dominate the last mile of the traditional wireline networks, CLECs must either use an ILEC's local loops, build their own facilities, purchase 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, financial analyses, and responses to Commission

surveys conducted by the University of Florida's Bureau of Economic and Business Research (BEBR).

Changes to Section 364.386, F.S., in 2007 gave telecommunications companies the option of responding to the Commission's data request or filing a copy of the company's FCC Form 477 with Florida-specific access line data on an exchange-specific basis.

The response rate for CLECs for this report was 97 percent. The response rate for ILECs remains steady at 100 percent. Companies that did not respond by April 7, 2008, were mailed a second reminder letter. Commission staff also telephoned and e-mailed the CLECs that did not respond by the April 15 deadline. Enforcement actions are underway against CLECs that did not respond to the 2008 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.

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 over wireless, VoIP, and broadband providers. While some providers of these services voluntarily contributed data to enhance the accuracy of this report, these providers are beyond the jurisdiction of the Commission and cannot be compelled to contribute.

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CHAPTER II. COMMUNICATIONS MARKET OVERVIEW

Stand-alone wireline voice telecommunications has been an American household staple since the 1930s when Congress identified, through the enactment of the Communications Act of 1934, the widespread availability of telecommunications service as an important economic and social objective. In 1995, the Florida Legislature recognized the potential benefits of introducing competition for telecommunications services and enacted legislation to open local telecommunications markets to service providers other than the incumbent local exchange companies (ILECs). The following year, Congress enacted the Telecommunications Act of 1996 making local competition a national objective. Neither Congress nor the Florida Legislature envisioned the evolution of wireless and VoIP would make these services so prominent in today's market. Similarly, it was not possible to anticipate the level of sophistication that characterizes telecommunications devices and services. As a result of these competitive pressures, residential wireline access lines in Florida began to decline in 2001 and have continued to decline to the present period.

Wireline service provided by ILECs is still the leading telecommunications choice for households in Florida despite a continuing trend of residential access line decline. As in recent years, wireless and VoIP services are making gains. Telephone survey data reflects that through December 2007, 78 percent of Florida households with wireline service (including cable telephony) also subscribe to wireless service, up from 75 percent as of June 2006.[4] The CDC estimates the number of wireless-only households in the United States to be 15.8 percent for the period June 2007 to December 2007 compared with 13.6 percent during the July 2006 to December 2006 timeframe.[5] In addition, 60.3 percent of households with wireline phones now subscribe to broadband service, an increase of nearly 8 percent from the previous year. Approximately 10.1 percent of wireline households indicate that they have phone service from their cable provider and 9.9 percent say they subscribe to VoIP service. When results are adjusted to eliminate responses that indicate subscription to both cable telephony and VoIP service, the combined percentage reaches 16.1 percent. This figure is more than five times the number of respondents who subscribed to VoIP service in June 2006.[6] In addition, the Florida Cable Telecommunications Association (FCTA) reported that its five largest member companies have approximately 748,000 residential cable telephony subscribers as of December 2007. The vast majority of those subscribers are served by VoIP technology. These results confirm that cable telephony and VoIP are gaining mainstream acceptance as communications alternatives. Wireless substitution for traditional wireline service is also continuing to grow as evidenced by recent data released by the CDC.

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[4] University of Florida, Bureau of Economic and Business Research (BEBR), survey data collected on behalf of the Florida Public Service Commission, unpublished data September-December 2007.

[5] Stephen J. Blumberg and Julian V. Luke, "Wireless Substitution: Early Release of Estimates from the National Health Review Survey, June-December 2007," Centers for Disease Control, National Center for Health Statistics, May 14, 2008, p.1 and Table 1, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200805.htm>, accessed on May 16, 2008.

[6] The survey questions were modified in September 2007 to differentiate cable-provided VoIP service from VoIP service from other providers. Since the survey includes only wireline respondents (traditional telephone companies and cable-provided telephony), it is assumed that respondents who indicate they subscribe to VoIP (and who are also subscribing to traditional wireline service) are not using VoIP as their primary communications service.

Factors contributing to market dynamics in Florida since the last report include the entry into video program distribution by telecommunications companies, the expanded presence of cable VoIP services, passage of video franchising reform in Florida, and the introduction of the iPhone and other so-called "smartphones." Ongoing factors include continued growth of wireless subscriptions and bundled service offerings by cable providers, including voice service. In addition, state and federal regulatory changes have also affected the telecommunications market.

A. WIRELINE

The three major ILECs serving Florida—AT&T, Verizon, and Embarq—have continued to lose wireline access lines while maintaining profitability and growing revenues. In its first quarter 2008 earnings report, AT&T reported a national loss of 5 million local phone lines since first quarter 2007. The company was able to report revenue growth, due largely to growth in wireless revenues, despite a 7.3 percent decline in wireline voice sales. AT&T's mobile phone revenue was up 18.3 percent, to $11.8 billion, or more than a third of the company's overall revenue.[7]

Verizon reported strong wireless results nationally, but lower than expected wireline earnings for the 12-month period ending March 31, 2008. Verizon lost 8.2 percent of its wirelines nationwide from the first quarter 2007 through first quarter 2008. Broadband connections were up 14.9 percent, but total operating revenue in the wireline operations, which includes business services, declined 1.4 percent. Verizon Wireless added 1.5 million subscribers in the first quarter 2008 for a 13.2 percent increase in total revenues, and wireless data revenues were up 48.9 percent.[8]

Embarq reported a loss of about 120,000 access lines nationally in the first quarter of 2008, adding to a 7.3 percent decline from a year ago.[9] Telecommunications revenues declined 1.6 percent from the prior year. The company reported that growth in high-speed Internet and data revenues partially offset a decline in voice revenue.[10]

The earnings reports of Florida's three largest ILECs underscore the shrinking portion of the telecommunications business represented by wireline voice services and emphasize continued wireless growth, particularly in wireless data, for AT&T and Verizon Wireless. In addition, broadband revenues bolstered earnings for all three companies.

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[7] Mourna Desmond, "AT&T Flies by Wireless," Forbes.com, April 22, 2008, <http://www.forbes.com/markets /2008/04/22/att-earnings-wireless-markets-equity-cx_md_0422markets10.html>, accessed April 29, 2008.
[8] Peter Svensson, "Growing customer base boosts Verizon 1Q profit by 9.8 pct," Forbes.com, April 28, 2008, < http://www.forbes.com/feeds/ap/2008/04/28/ap4940513.html?partner=alerts>, accessed on April 29, 2008.
[9] "Phone Lines Decline, but Embarq's Profit Is Up," *The New York Times*, April 30, 2008 <http://www.nytimes.com/2008/04/30/technology/30embarq.html?_r=1&ref=business&oref=slogin>, accessed on April 30, 2008.
[10] "EMBARQ Reports First Quarter Results Highlighted by Strong Earnings and Cash Flow," Embarq News Release, April 29, 2008, <http://investors.embarq.com/phoenix.zhtml?c=197829&p=irol-newsArticle&ID =1136725&highlight=>, accessed on April 30, 2008.

Rural carriers are also experiencing competitive pressures as evidenced by Windstream Corporation's recent quarterly earnings report.[11] The company reported one percent revenue growth driven primarily by growth in the number of broadband and digital video subscribers. The company also reported a 4.9 percent decline in the number of wireline access line subscribers from the same quarter of the previous year.[12] The company reported that voice revenue streams were being replaced by growth in data, special access, and long distance revenue. FairPoint Communications, which also provides services in Florida, has noted "... some voice competition from cable providers and competitive local exchange carriers" in its markets.[13] While revenue for local calling services increased 3 percent for the company from 2006 to 2007, the revenues from data and Internet services increased 25 percent for the same period.[14] These examples illustrate that even rural carriers are experiencing a transition from a voice emphasis to a greater reliance on data services as a way to maintain revenues and remain competitive.

1. Mergers/Acquisitions

The merger and acquisition activity that surged in 2005 and 2006 abated somewhat since the last edition of this report, but some activity continued into late 2006 and 2007. Notable actions included the following:

a. AT&T/BellSouth

The FCC approved the $86 billion merger between AT&T and BellSouth on December 29, 2006. First proposed in March 2006, the merger created what is touted as the nation's dominant telecommunications company, controlling more than half of the telephone and Internet access lines in the United States.[15] Approval of the merger was granted subject to conditions. Among those conditions, AT&T agreed to the sale of certain airwaves in the 2.5 gigahertz (GHz) band, a fixed monthly price for stand-alone basic high-speed Internet service, and a pledge to adhere to specific network neutrality rules for two years.

In its order approving the merger, the FCC wrote: "The commission concluded that significant public interest benefits are likely to result from the transaction," including more widespread broadband coverage, increased competition, and enhanced national security and disaster recovery.[16]

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[11] "Windstream Reports Higher Revenue, Cash Flow in First Quarter, Company Buys Back $100 Million in Shares During Quarter," Windstream News Release, May 9, 2009, <http://www.windstream.com/about/NewsDetail.aspx?NewsID=81>, accessed on May 15, 2009.

[12] Ibid.

[13] FairPoint Communications, Inc., "SEC Form 10-K Annual Report," FairPoint Communication's Annual Report for Fiscal Year Ended December 31, 2007, February 28, 2008, p. 2, <http://www.sec.gov/Archives/edgar/data/1062613/000104746908006761/a2185708z10-q.htm>, accessed on June 12, 2008.

[14] Ibid, p. 52.

[15] "FCC Approves AT&T-BellSouth Merger," CNET News.com, January 2, 2007, <http://news.cnet.com/FCC-approves-ATT-BellSouth-merger/2100-1036_3-6146369.html>, accessed on May 15, 2008.

[16] FCC 06-189, WC Docket No. 06-74, AT&T, Inc. and BellSouth Corporation Application for Transfer of Control, Memorandum Opinion and Order, Released March 26, 2007, ¶¶ 223, 224, <http://fjallfoss.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6519108219>, accessed on May 29, 2008.

b. Verizon

In a series of decisions in February 2008, Verizon of New England was granted approval to transfer its wireline local exchange and intrastate long distance businesses to FairPoint Communications, Inc. Conditional approvals were granted by the Maine Public Utilities Commission (February 1, 2008), the New Hampshire Public Utilities Commission (February 25, 2008), and the Vermont Public Service Board (February 15, 2008). The decisions came more than a year after Verizon of New England sought to spin off its businesses in the three states. Industry analysts have suggested that Verizon divested itself of holdings in these rural areas in order to avoid the uneconomic expense related to deployment of its trademark FiOS product in areas where the likelihood of a positive return on investment was not great.[17]

c. CLEC Consolidation

Consolidation continues in the CLEC community, although the pace of larger-scale acquisitions appears to have slowed compared with previous years. Since the last edition of this report, Level 3 Communications acquired the content delivery network of SAVVIS in late 2006 and completed its acquisition of Broadwing Corporation in early 2007.

Of particular note in Florida, NuVox Communications merged with FDN Communications in 2007, creating a combined enterprise with 90,000 customers, approximately one million voice and data lines and annual revenues expected to exceed $500 million. Financial terms of the merger of the two privately held companies were not disclosed.

Cleartel Communications, Inc. acquired Supra Telecom during the fourth quarter of 2006. Supra was the largest CLEC provider of residential services in 2005, primarily in South Florida. Cleartel reports data under four certificates, one of which is the former Supra Telecom. Cleartel reported in excess of 80,000 residential customers for Supra as of June 2007.

Covad Communications Group announced in early 2008 it has received regulatory approval from the FCC and relevant state commissions for its proposed acquisition by Platinum Equity. Covad offers DSL service, VoIP, and broadband wireless services, among others, in 44 states and 235 metropolitan statistical areas and claims to be available to 50 percent of American homes.

B. WIRELESS

The wireless industry continues to post gains in subscribership, and the number of households relying exclusively on wireless to provide telecommunications services continue to increase. The CDC estimated the number of wireless-only households in the United States to be

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[17] "Verizon (VZ): State-by-State Deep Dive Exposes Magnitude of Consumer Wireline Woes; Cutting Target to $37," Bernstein Research Investor Bulletin, April 4, 2008, p.4.

15.8 percent during the period June 2007 to December 2007 compared with 13.6 percent during the July 2006 to December 2006 timeframe.[18]

Despite increases in subscribership, some industry analysts are suggesting that wireless markets in North America may be approaching saturation levels.[19] With wireless penetration hovering between 77 percent and 80 percent in the United States, one recent analysis predicts "our composite forecast points to 89 percent 'terminal' penetration. With penetration today at 77 percent, this point of market saturation in the U.S. is approaching."[20] This view appears to have support from the analyst firm Gartner, Inc., which noted: "After another strong year, we expect the growth in sales of mobile devices to end users will decelerate in 2008 and fall to about 10 percent growth as mature markets become more saturated."[21] These "mature" wireless markets include the United States and a number of western European countries.

A contrary view to the market saturation argument is that a proliferation of data capable handsets or smartphones will continue to drive demand for wireless services with an emphasis on data services. One of the most publicized examples of smartphones in 2007 was Apple's iPhone. Equipped with multimedia capabilities, Web browsing, Global Positioning System (GPS), and Wi-Fi capability, the iPhone and other so-called smartphones can serve a variety of purposes. Other manufacturers, including Samsung, LG, and Nokia, are also producing smartphones and other carriers are providing wireless Internet access. With the increasing customer use of mobile data services, wireless carriers are anticipating a growing portion of revenues and expenses to shift towards data and away from voice in the foreseeable future. During June 2007, Verizon Wireless experienced a record volume of 10 billion text messages, roughly 30 times the U.S. population, by one carrier in one month.[22]

The two largest wireless providers, AT&T and Verizon, won the majority of the licenses in the FCC's recent 700 megahertz spectrum auction, further bolstering their foothold in the wireless data market. Both carriers have recently announced their intentions to use the newly acquired spectrum to support mobile broadband. A recent press release from Verizon, winner of the most C-Block (the block with the requirement to allow a customer to use any manufacturer's device to access the service) licenses, stated, "we are at the very beginning of explosive data growth."[23] A similar release from AT&T, winner of the most B-block (the block with no open access requirement) licenses, contained the statement, "Wireless broadband traffic on the AT&T network has quadrupled every year since 2004, as customers have taken advantage of faster

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[18] Stephen J. Blumberg and Julian V. Luke, "Wireless Substitution: Early Release of Estimates from the National Health Review Survey, June-December 2007," Centers for Disease Control, National Center for Health Statistics, May 14, 2008, p.1 and Table 1, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200805.htm>, accessed on May 16, 2008.

[19] "Initiating Coverage on U.S. Telecom: Show Me the Money...Capital Discipline Will Determine Winners and Losers," Bernstein Research Investor Bulletin, October 17, 2007, p.1.

[20] Ibid, p. 21.

[21] "Gartner Says Worldwide Mobile Phone Sales Increased 16 Percent in 2007," Gartner Press Release, February 22, 2008, <http://www.gartner.com/it/page.jsp?id=612207>, accessed on May 20,2008.

[22] Chetan Sharma Consulting, "US Wireless Data Market Update - Q2 & 1H 2007," <http://www.chetansharma.com/usmarketupdateq207.htm>, accessed on February 22, 2008.

[23] "Verizon Wireless Customers Surpass 10 Billion Text Messages In Month Of June," Verizon Press Release. June 24, 2007, <http://news.vzw.com/news/2007/07/pr2007-07-24a.html>, access on May 15, 2008.

broadband speeds and emerging wireless applications ranging from live video sharing to social networking and business applications."[24] Smartphones have created value by adding convenient portability and broadband functionality previously limited to stationary solutions or bulky laptop devices. Widespread wireless access and ultra portable devices will likely continue to spur demand.

Verizon Wireless and Alltel announced on June 5, 2008, that they have reached an agreement for a cash merger. The resulting Verizon Wireless would be the nation's largest wireless carrier, surpassing AT&T for wireless subscribers.[25] The parties are targeting completion of the merger by the end of the year, pending regulatory approvals. Alltel serves more than 13 million customers in 34 states, including 57 primarily rural markets that Verizon does not serve. Verizon and Alltel both use the same network technology, so a clean consolidation is expected.[26]

Another recent competitive development has been the emergence of $99 "unlimited" wireless plans by the major providers. Alltel, AT&T, Verizon, Helio, T-Mobile, and Sprint Nextel all offer unlimited usage voice plans for $99. Some carriers offer plans that include services such as Web browsing, multimedia messaging, GPS, e-mail, video, and radio for the $99 price. Verizon has indicated that before its plan was introduced, 4 percent of new subscribers opted for plans that cost $99 or more. With the introduction of the new plan, 13 percent were buying the $99 plan.[27]

C. VOICE OVER INTERNET PROTOCOL (VOIP)

Previous editions of this report have discussed the progression of VoIP in the telecommunications market in Florida. That progression continues with cable-provided VoIP surpassing so-called "over-the-top" providers who are dependent on the public Internet to deliver traffic and also dependent on the customer to have his/her own broadband connection.

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[24] "AT&T Acquires Key Spectrum to Set Foundation for Future of Wireless Broadband, More Choices for Customers," AT&T Press Release, April 3, 2008, <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=25428>, accessed on April 9, 2008.

[25] Amal Sharma, Dennis K. Berman and Serena Ng, "Verizon in Talks to Acquire Rival Alltel," *The Wall Street Journal Online*, June 5, 2008, <http://online.wsj.com/article_print/SB121260855426646057.html> accessed on June 9, 2008.

[26] "Verizon Wireless To Acquire Alltel; Will Expand Nation's Most Reliable Wireless Network," Alltel Press Release, June 5, 2008, < http://www.alltel.com/wps/portal/AlltelPublic/c1/04_SB8K8xLLM9MSSzPy8xBz9CP0os3hnP2DoCBDAwN_HxcnAyNLZ0PLIE9DIN9MPxykA0mFu3eokYFRgFOwWZi7i5GBgQFE3gAHcDTQ9_PIz03Vj9SPMsdpj7uJfmROanpicqVQXZ2mnO6oiIAUfiTyw!!/dl2/d1/L0lJSklna21BL0lKakFBTXlBQkVSQ0pBISEvWUZOQTFOSTUwLTVGd0EhIS83X0NOSzBSUjEwME9MREIwMjlDMTlSSTExMEc0L0tfX19fMg!!/?WCM_PORTLET=PC_7_CNK0RR100OLDB029C19RI110G4_WCM&WCM_GLOBAL_CONTEXT=http://alltelhttp.alltel.com/wps/wcm/connect/Corporate/home/c/mediacenter/newsrelease/08/june/n411june0508b.html>, accessed on June 11, 2008.

[27] Peter Svennson, "Growing Customer Base Boosts Verizon 1Q Profit by 9.8 Pct," Forbes.com, April 28, 2008, <http://www.forbes.com/feeds/ap/2008/04/28/ap4940513.html?partner=alerts>, accessed April 29, 2008.

1. Over-the-Top Providers

The point has been made in previous editions of this report that those providers using their own managed networks to provide VoIP services may have a long-run advantage compared to over-the-top providers. This perceived advantage has been augmented by the choice of many managed network providers to offer video and data services in conjunction with telephony services. For customers seeking all three services, a one-stop shopping alternative may be more attractive than having to secure three services from three separate providers. For whatever reason, the growth in the over-the-top sector seems to have slowed. Current publicly available data for this sector is scarce, but indicators suggest a slower growth trend. Vonage, the acknowledged leader in the over-the-top sector, continues to report growth, but at reduced levels from 2005. In addition, its share of the over-the-top market has constricted somewhat, from an estimated 53.9 percent as of second quarter 2006, as reported by Telephia,[28] to an estimated 48.1 percent by year end 2006.[29] This slide in market share may have reflected negative press received as a result of a series of patent infringement suits filed against the company. Another highly publicized event was the sudden demise of SunRocket, an over-the-top provider previously serving an estimated 220,000 customers and once the second largest provider in the sector.[30]

Vonage has maintained moderate growth, and it reported approximately 2.6 million subscribers through the first quarter of 2008 compared to 2.2 million the previous year. Vonage also announced a recent cooperative effort with Covad Communications to begin providing a broadband product over the Covad network. Based on its response to an inquiry by FPSC staff, Vonage reported a higher growth rate in Florida-based subscribers than its national growth rate.

Despite facing some imposing issues, over-the-top VoIP providers continue to maintain a loyal customer base. This category of provider will likely continue to serve a segment of the voice market that is looking for inexpensive service that provides reduced-cost long distance service and integrated features at a reduced price.

2. Cable VoIP

A significant aspect of VoIP service is the growth in cable telephony subscriptions since the last edition of this report. According to the Telecommunications Industry Association's (TIA's) 2008 Telecommunications Market Review and Forecast, the number of residential U.S. VoIP subscribers has tripled over the last two years to 15.9 million.[31] No company is more

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[28] "Telephia Reports 4.1 Percent of Online U.S. Households Subscribe to a VoIP Telephone Service Up From 3.1 Percent in Q1 2006," Telephia Press Release, July 21, 2006, <http://www.telephia.com/documents/VoIP_Press_Release_Top_Providers_v9_FINAL_7_20_06.pdf>, accessed on August 30, 2006.

[29] E-mail sent to FPSC staff from Telephia analyst, May 1, 2007.

[30] Matt Richtel, "SunRocket Leaves Void for Callers on Internet," *The New York Times*, July 23, 2007, <http://www.nytimes.com/2007/07/23/technology/23sunrocket.html?ex=1342843200&en=860146d46e23c047&ei=5088&partner=rssnyt&emc=rss>, accessed on March 22, 2008.

[31] Tom Burton, "Twenty Percent Annual Growth for VoIP," FierceVoIP, February 25, 2008, <http://www.fiercevoip.com/story/twenty-percent-annual-growth-for-voip/2008-02-25>, accessed on February 25, 2008.

representative of this growth than Comcast. Last year's edition of this report attributed 721,000 U.S. VoIP subscribers to Comcast, as of June 2006.[32] At that time, Comcast trailed both Time Warner Cable and Cablevision Systems Corporation in the number of VoIP subscribers in the U.S. Comcast's fourth quarter 2007 results report nearly 4.4 million telephony subscribers, 200,000 of which are legacy circuit switched subscribers.[33] Based on number of subscribers, Comcast is now the largest VoIP provider in the U.S. Comcast also reported it will complete the transition of its remaining circuit switched telephony subscribers to VoIP by the end of 2008.[34] Time Warner Cable,[35] Cox Communications,[36] and Cablevision Systems Corporation[37] also experienced strong growth, accounting for a combined national subscribership of nearly 6.9 million as of fourth quarter 2007.

Bright House Networks, Comcast, Cox Communications, Knology, and Mediacom are the major cable providers offering voice telephony in Florida. Since the Commission's 2006 competition report, Comcast has rolled out its digital voice offering in several additional Florida communities including Panama City, Tallahassee, Cape Coral, St. Augustine, and large parts of its Broward and Dade county service areas. The company has indicated it now has VoIP telephony available to the vast majority of its Florida cable subscribers.

D. BROADBAND

A major development in the broadband arena is the growing demand for wireless broadband service. In particular, the rollout of Apple's iPhone product has raised the consciousness of the consumer market for wireless broadband devices and applications. Devices such as BlackBerrys and smartphones have historically been marketed to, and used by, business professionals. Over the past 18 months, marketing of such devices to mainstream consumers has increased dramatically. In addition, AT&T Wireless, Verizon Wireless, and a number of other national and regional wireless carriers secured new spectra in the recent FCC 700 MHz auctions. Both AT&T and Verizon have publicly stated their intentions to use this spectrum to improve and enhance their wireless broadband capabilities. The coming years are expected to see continued growth in the use of wireless handheld devices that are fully portable and capable of an array of uses to fit the lifestyles of the consuming public.

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[32] Comcast Corporation, "SEC Form 10-Q Quarterly Report," Comcast's Quarterly Report for Second Quarter 2006, June 26, 2006, p. 32, <http://www.sec.gov/Archives/edgar/data/1166691/000119312506155589/d10q.htm>, accessed on June 6, 2008.

[33] Comcast Corporation, "Financial Tables," Comcast Reports Fourth Quarter 2007 Results, February 2008, <http://media.corporate-ir.net/media_files/irol/11/118591/Earnings_4Q07/Q407.htm>, accessed on February 18, 2008.

[34] Ibid.

[35] Time Warner Inc, "Financial Results," Time Warner Inc. Reports For 2007 Full Year and Fourth Quarter," February 2008, <http://files.shareholder.com/downloads/TWX/235094534x0x166405/85024152-00de-438e-be35-a78cd1ed3ca9/q407earningsrelease.pdf>, accessed on February 6, 2008.

[36] Cynthia Brumfield, "Cable Telephony Tops the 13-Million Mark," Emerging Media Dynamics, Inc., (EMDI) - IP Democracy, March 5, 2008, <http://www.ipdemocracy.com/archives/2008/03/05/#002899>, accessed on March 5, 2008.

[37] Cablevision Systems Corporation, "SEC Form 10-K Annual Report," Cablevision's Annual Report for Fourth Quarter 2007, February 2008, <http://www.sec.gov/Archives/edgar/data/784681/000110465908013859/a08-2326_110k.htm>, accessed on March 19, 2008.

Past reports have alluded to a potential saturation point based on the households with personal computers and the barrier of price. The past 18 months have been characterized by increases in download and upload speeds and the emergence of pricing differences based on relative speeds. Most broadband providers, both cable companies and LECs, offer tiered pricing for broadband services based on speed. Having lower priced options may be enticing new broadband users who were reluctant to subscribe in the past.

Another phenomenon that is spurring the demand for higher bandwidth (faster) offerings is the availability of video downloads. For example, a variety of entertainment video Web sites provide access to video clips of varying sizes and varying content that can be viewed using a broadband connection. Such applications require more bandwidth than other data and voice applications. Video applications such as these are extremely popular, and such applications undoubtedly spur demand for faster broadband access.

E. BUNDLED SERVICE OFFERINGS: THE TRIPLE PLAY

Competition to provide voice, video, and data services to consumers has intensified. Many cable system operators, traditional telecommunications carriers, and even some CLECs now offer all three services in bundled offerings commonly referred to as the "triple play." In particular, the push to acquire customers who will subscribe to all three offerings from the same provider has gained momentum. The bundling of services is frequently viewed as a way for consumers to save money and gain the convenience of one-stop shopping. Bundling also provides a benefit to service providers by increasing revenues per subscriber over single-service subscribers. For service providers, the power of the bundle arises from the relatively low cost of providing multiple services once a network is engineered and built with certain capabilities.[38] Once networks are designed and constructed with the necessary bandwidth to deliver video services, both cable and telecommunications companies can provide the other two services at relatively low incremental cost. If a customer subscribes to all three services, or even two of the three, the revenue stream to the company is enhanced over and above the incremental cost of delivering the additional services. If the service provider offers a discount for subscribing to multiple services, but the increased cost to provide the additional services is incidental to the cost of operating and maintaining the network, then both the customer and the provider are somewhat better off. However, the customer must derive sufficient benefit from multiple services in order to offset the cost of the foregone freedom not to subscribe to a service or to subscribe to service from a different provider.

Another benefit of bundles to service providers is the reduction of subscriber churn. Churn is the number of customer disconnects in a given time period expressed as a percentage of total subscribers. Virtually every cable system operator and telecommunications company reports a decrease in churn rate among subscribers of bundled service offerings.[39] This reduction may be due to the increased transaction costs of switching multiple services. Regardless of the particular rationale, subscribers to bundled service packages are less likely to switch providers.

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[38] Craig Moffet, "Weekend Media Blast: (We're) Not Buying It," Bernstein Research Investor Bulletin, September 28, 2007, p. 1.
[39] Ibid, p. 1.

Survey data gathered by the University of Florida's Bureau of Economic and Business Research (BEBR) indicate that consumers expressing a preference for bundled service offerings far outweigh those consumers actually subscribing to bundled offerings. Survey results show that those expressing preference for bundled service offerings decreased to 34 percent as of second quarter 2007, from 44 percent in second quarter 2006. Over the same time period, survey respondents actually subscribing to bundled service offerings rose 5 percentage points to 11 percent. The disparity between those expressing a preference for bundled service offerings and those actually subscribing to them may be a function of the greater availability of these offerings combined with the recognition that price savings do not provide a sufficient incentive for some consumers to make a change. The survey results may suggest that consumers are mostly concerned with price and will seek the most cost-effective combination of services to meet their needs, regardless of promotional efforts and hype.

Despite the disparity between those expressing a preference for bundled service offerings and those subscribing to them, the number of bundled subscribers is increasing. Moreover, since customer churn seems to be less for bundled subscribers and the cost to provide additional services once a primary service is provided is low, it is reasonable to expect that carriers will continue to market bundled offerings.

F. REGULATORY FACTORS

Changes to state and federal regulatory policy, as well as changes in state and federal law, continue to influence telecommunications markets. While there may not be immediate measurable impacts on the Florida telecommunications market as a result of these changes, the changes are significant in that they signal a growing recognition by regulatory and legislative bodies of the changing nature of the telecommunications industry.

1. Forbearance

A significant development in federal regulatory policy is the increasing number of forbearance decisions issued by the FCC. The 1996 Act permits a telecommunications carrier to petition the FCC to refrain, or forbear, from applying any statutory provision or regulation if the FCC determines the forbearance petition meets certain criteria. The following petitions were granted or deemed granted by operation of law since 2006:

- Verizon was granted forbearance relief with respect to its broadband services by operation of law.
- AT&T, Embarq, Frontier, and Citizens were granted partial relief similar to that granted Verizon.
- AT&T, Qwest, and Verizon were granted relief allowing them to offer in-region interstate long distance service under nondominant carrier regulation. The FCC also granted relief from the requirement to inform new customers of other available long distance carriers.

- AT&T was granted relief from various cost assignment accounting rules subject to assorted conditions. AT&T is required to file a compliance plan to explain how it will satisfy the FCC's conditions to provide useable data on a timely basis when a request is made.

A more comprehensive discussion of these and other forbearance decisions appears in Chapter VII of the report.

2. Universal Service Fund

Contributions to the Federal Universal Service fund (USF) are currently assessed on communication providers including wireline, wireless, and VoIP providers. Wireless providers and wireline providers have access to various forms of USF support, but the status of VoIP providers as potential support recipients is unclear.[40] As a result of differences in contribution and support methodologies among carriers, some have argued that the USF has adverse competitive impacts by disadvantaging some carriers to the benefit of others. As a result, almost all providers of communications services support USF reform.

Florida consumers pay significantly more into the USF than the amount of support that is returned to eligible service providers within our state.[41] Carriers are currently assessed a contribution factor of 11.3 percent of their interstate and international end-user revenues.[42] The Commission has actively monitored and participated in ongoing USF proceedings at the FCC and with the Federal-State Joint Board on Universal Service (Joint Board). The FPSC's Commissioner Edgar is a state member of the Joint Board. The FPSC has consistently supported positions that stress efficiency, accountability, and controlling growth in the fund. The FPSC believes that such efforts will result in savings to Florida consumers. The FCC and the Joint Board took several actions on universal service related issues in the most recent reporting period.

The Joint Board issued two recommended decisions to the FCC during the reporting period. The first recommended decision related to imposing an interim cap on competitive Eligible Telecommunications Carrier (ETC) high-cost support,[43] and the second recommended decision pertained to comprehensive high-cost reform.[44] The second recommended decision supported a permanent cap on the high-cost portion of the fund and the establishment of a separate fund for support of wireline carriers, carriers providing wireless mobility, and broadband providers. In addition, the recommended decision supported the implementation of reverse auctions as a means to determine support recipients.

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[40] At least one VoIP service provider, Cox Georgia Telecom, LLC, a subsidiary of Cox Communications, has requested ETC designation from the Georgia Public Service Commission. That request is pending as of July 15, 2008.

[41] FCC, "Universal Service Monitoring Report," CC Docket No. 98-202, released on December 28, 2007, Table 1.12, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-279226A1.pdf>, accessed on May 14, 2008.

[42] FCC Public Notice, Proposed Second Quarter 2008 Universal Service Contribution Factor, DA 08-576, CC Docket No. 96-45, released March 14, 2008. Interstate and international wireless and VoIP revenues are also subject to this assessment although assessment methodology may vary.

[43] FCC 07J-1, CC Docket No. 96-45, WC Docket No. 05-337, Recommended Decision, released May 1, 2007.

[44] FCC 07J-4, CC Docket No. 96-45, WC Docket No. 05-337, Recommended Decision, released November 20, 2007.

The FCC imposed an interim cap on universal service high-cost support received by competitive ETCs.[45] The decision is intended to control the major source of growth in the fund while more comprehensive reform is addressed. The decision was adopted April 28, 2008. The FCC had previously imposed company-specific caps for competitive ETC high-cost support as part of acquisition conditions on Alltel[46] and AT&T.[47]

The FCC subsequently released three separate but related Notices of Proposed Rulemaking on universal service reform, specifically high-cost support reform, in January 2008.[48] The first notice sought comment on the FCC rule which allows competitive ETCs to receive support based on the costs of the incumbent carrier. The FCC tentatively concluded that this rule should be eliminated. The second notice addresses the use of reverse auctions to award high-cost support. In this notice, the FCC tentatively concludes that reverse auctions have advantages over the current system. The final notice seeks comment on the Joint Board's November 2007 Recommended Decision. The FPSC filed comments with the FCC supporting various reform elements. A more thorough discussion of FCC actions and the FPSC comments appears in Chapter VII. An FCC decision on these proposed rulemakings is anticipated in late 2008.

3. State Legislation

Two sessions of the Florida Legislature have occurred since the previous publication of this report. Several significant changes to Florida law have been enacted that have impacted the telecommunications market.

The 2007 Florida Legislature passed HB 529, the Consumer Choice Act of 2007. HB 529 related primarily to reform of video franchising authority and was intended to ease the entry of competitive providers of video service and ensure equal protection and parity among providers and technologies. The legislation also repealed certain telecommunications laws related to rate rebalancing and contained provisions to facilitate an automatic enrollment process for Lifeline service between the FPSC, the Department of Children and Families (DCF), and local exchange telecommunications companies. The legislation has made it easier for multichannel video program distribution companies to obtain a statewide franchise in one application. The legislation was generally supported by the ILECs, many of which are entering

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[45] FCC 08-122, WC Docket No. 05-337, High-Cost Universal Service Support, and CC Docket No. 96-45, Federal-State Joint Board on Universal Service, Order, released May 1, 2008, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-122A1.doc>, accessed on May 15, 2008.

[46] FCC 07-196, WT Docket No. 07-153, Applications of AT&T Inc. and Dobson Communications Corporation for Consent to Transfer Control of Licenses and Authorizations, Memorandum Option and Order, released November 19, 2007, ¶¶ 68-72.

[47] FCC 07-185, WT Docket No. 07-128, Application of Alltel Corporation, Transferor, and Atlantis Holdings, LLC, Transferee, Memorandum Opinion and Order, released October 26, 2007, ¶¶ 9-11.

[48] FCC 08-22, FCC 08-5, & FCC 08-4, WC Docket No. 05-337, High-Cost Universal Service Support and CC Docket No. 96-45, Federal-State Joint Board on Universal Service, all released January 29, 2008, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-22A1.doc>, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-5A1.doc>, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-4A1.doc>, all accessed on May 15, 2008.

the video distribution business. Other aspects of this legislation are addressed in Chapter VI of the report.

Currently, Section 364.025, F.S., requires that until January 1, 2009, an ILEC must provide basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's service territory. This obligation is typically referred to as the carrier-of-last-resort (COLR) obligation. The 2008 Florida Legislature adjourned without extending this sunset provision for the COLR obligation, and it will expire prior to the time the 2009 session is scheduled to convene. It is premature to speculate whether a lack of Florida-specific COLR obligation will have any impact on Florida consumers.

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CHAPTER III. STATUS OF WIRELINE COMPETITION IN FLORIDA

A. WIRELINE ACCESS LINES IN FLORIDA

1. Summary of Results

Traditional wireline access lines (residential plus business) declined from approximately 12 million in 2001 to 9.8 million as of June 2007, and to 9.3 million by December 2007.[49] This decline continues a downward trend that began in 2001. The decline has occurred each year except for a slight gain in 2004. Through December 2007, wireline residential access lines have declined by approximately 2.7 million since 2001. December 2007 wireline residential access lines for ILECs and CLECs combined have declined 31 percent from 2001 levels, to a combined total of 5.7 million. A decline of more than 970,000 residential lines occurred during the last reporting period, a span of 19 months.[50]

Combined ILEC and CLEC business access lines increased by approximately 55,000 lines, to a combined total of 3.6 million from May 2001 to June 2007, an increase of approximately 1 percent. However, combined business access lines increased by nearly 117,000 lines between June 2007 and December 2007. Verizon, Embarq, and the rural ILECS each experienced some business access line decline.[51] Since 2001, combined ILEC and CLEC business access lines have declined by approximately 82,000.

2. Contributing Factors to Access Line Declines

The primary reason for the decline in residential access lines is the substitution of wireless and VoIP services for traditional wirelines. In addition, there are undoubtedly lingering effects related to the restructuring in the CLEC residential market as a result of FCC decisions embodied in the Triennial Review Order (TRO) and Triennial Review Remand Order (TRRO). It is also likely that the sluggish U.S. economy has factored into results, especially for the last six months of 2007.

As noted in Chapter II, wireless substitution for wireline service continues to increase. The CDC estimates that 15.8 percent of U.S. households and 17.1 percent of households in the south region rely on wireless service as their primary telecommunications technology. That percentage equates to approximately 1.2 million Florida households.[52]

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[49] Florida specific access line data in this chapter is from FPSC Competition Report data requests 2001-2008.

[50] The decline in residential access lines on an annualized basis is approximately 620,000 access lines, a decline of approximately 3 percent more lines than the previous reporting period.

[51] As a result of combining in-territory access lines of AT&T's former CLEC with its ILEC access lines, AT&T's combined business access lines reflect an increase from 2006 levels. However, when comparing ILEC-only and former CLEC-only access lines to 2006 levels, each have declined.

[52] The estimated wireless-only households were calculated by multiplying the CDC's percent of wireless only households in the south region (17.1 percent) by the estimated number of Florida households in 2006 from the University of Florida (7,291,013); Cathy Keen "Florida households grow over last six years despite hurricanes," University of Florida News, March 20, 2008, <http://news.ufl.edu/2007/03/20/households/>, accessed on July 9, 2008.

As addressed more thoroughly in Chapter IV, the number of Florida residential VoIP subscribers is estimated to exceed 1 million. This estimated number surpasses the 265,984 reported wireline CLEC residential access lines in Florida by nearly four times. This estimate is likely to include an unknown number of VoIP customers who may still retain their traditional wirelines. Florida residential VoIP subscriptions exceeding 1 million is an indication that this category of voice service has achieved a degree of mainstream acceptance as a viable substitute for traditional wirelines.

The 2006 edition of this report detailed the challenges facing wireline CLECs, especially in the residential sector. Those challenges included the acquisition of the two largest CLECs, MCI and AT&T, by ILECs Verizon and AT&T (formerly SBC) and the effects of decisions by the FCC relating to pricing of wholesale components of local service provisioning. During the current reporting period, FCC decisions to grant forbearance from rules governing special access pricing and broadband offerings for enterprise customers may be contributing factors to a decline in CLEC market share for business access lines.

3. CLEC Market Composition

Table 3-1 represents a distribution of the number of CLECs by ranges of residential access lines for 2006 and 2007. Four CLECs serve more than 20,000 residential access lines, representing approximately 69 percent of the CLEC residential market for 2007. Only 1 CLEC serves between 10,000 and 20,000 residential access lines, and in combination with the top 4 residential providers, these 5 constitute 76 percent of the CLEC residential market. The remaining CLECs represent 24 percent of the residential CLEC market. There are 39 CLECs that serve fewer than 1,000 residential access lines each. There is an overall reduction in the number of CLECs reporting residential access line data from 141 in 2006 to 65 in 2007.

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

Number of Lines	2006		2007	
	Number of Providers	% of Total CLEC Res Lines	Number of Providers	% of Total CLEC Res Lines
20,000 +	5	69%	4	69%
10,000 - 20,000	1	2%	1	7%
1,000 - 10,000	38	24%	21	19%
Less than 1,000	97	5%	39	5%

Source: Responses to 2008 FPSC data requests.

Formerly the wireline CLEC access line leader in Florida, Comcast has reported that it transitioned its circuit switched residential customers to VoIP-based service by year-end 2007.

Competition by CLECs in the residential wireline market has continued to diminish as a result of intermodal competition and federal regulatory decisions that have altered CLEC business plans.

4. Modified Methodology

In prior reporting periods, two formerly independent CLECs, AT&T and MCI, represented a significant portion of the CLEC market. AT&T (ILEC) acquired AT&T (CLEC) and Verizon acquired MCI during 2005 and 2006. The CLEC operations of AT&T (CLEC) and MCI continue under the corporate control of AT&T and Verizon, respectively, both major ILECs and former competitors. This relationship has been in existence for more than two years, and it appears reasonable to assume that the assimilation of formerly independent operations is complete. For this reason, the access lines associated with the CLECs of AT&T, Verizon, and Embarq are treated differently in this report than in previous years.

Because the objective of this report is to provide the Legislature with as accurate an assessment of the competitive landscape as possible, the FPSC has modified the method by which some CLEC access lines are apportioned to achieve greater clarity. In the previous edition of this report, all CLEC lines were attributed to the competitive side of the ledger regardless of whether the operating company was a related entity of an ILEC operating in the affiliated company's territory. For this edition of the report, the access lines of a CLEC related to AT&T, Verizon, or Embarq are accounted for as competitive lines only when those access lines are outside of the affiliated ILEC's footprint.

In addition to the aforementioned changes, Florida law relating to the production of this report was amended in 2007. The 2007 amendment changed the due date from December of each year to August of this and subsequent years. In order to make the report as accurate and current as possible, the FPSC has changed the time periods for which it collects and analyzes data. For this year's report, the data was collected for June 2007 to correspond to previous reporting periods and for December 2007 to establish a current benchmark for future reports for which data will be collected on a calendar year basis.

Another change related to the amended statute is that responding companies have the option to file a response to the quantitative portion of the FPSC data request or to file the company's FCC Form 477 with exchange level access line data. There has been some confusion in the industry in regard to compliance with the statute and in regard to the reporting of exchange level access line data. Some companies have had difficulty complying with the new requirements, which has led to an increase in FPSC staff time to ensure the integrity and comparability of the data. This difficulty should be less of an issue in future reporting years.

B. Wireline Market Share And Access Lines

Charts and graphs in this section of the report use two data collection points – June and December – of 2007. The purpose of using two points is to establish a transition between past and future editions of this report. The June 2007 data point serves as a bridge from the 2006 and earlier editions of this report, while the December 2007 data point will serve as a benchmark for future editions, which will be based on calendar years.

In terms of data presentation, graphic figures and tables are arranged to provide market share, which is expressed in terms of percentage, and actual line counts, presented as raw numbers. Market share data are presented first followed by actual line counts.

1. CLEC Market Share

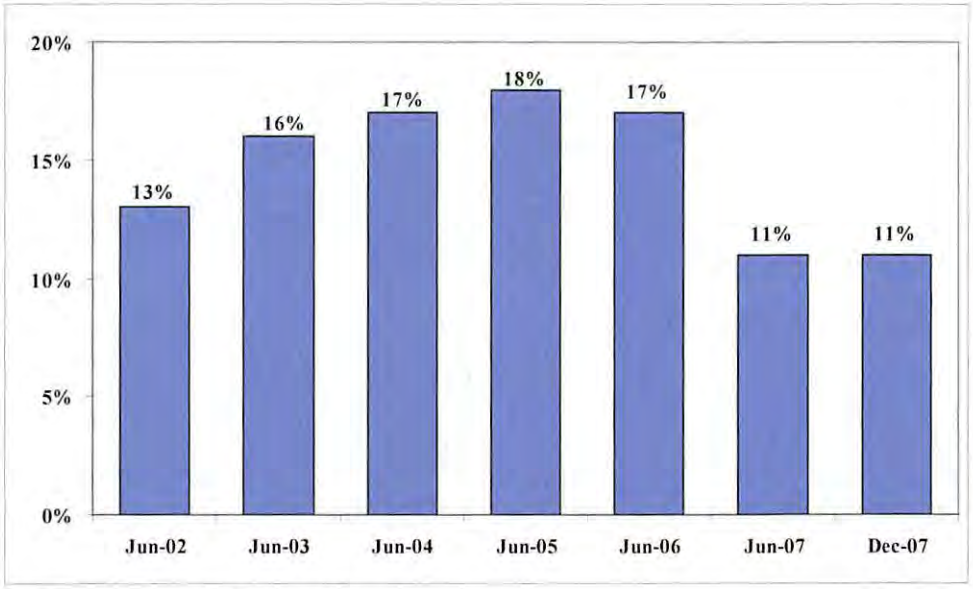
a. Florida

Calculations based on responses to the Commission's data request indicate the following CLEC Florida market share information as of December 31, 2007:

- CLEC overall market share is 11 percent, a decrease from 17 percent in June 2006.
- CLEC residential market share is 5 percent, a decrease from 7 percent in June 2006.
- CLEC business market share is 20 percent, a decrease from 33 percent in June 2006.

Figure 3-1 provides the CLEC market share percentages for total access lines (combined residential and business lines) 2002 through 2007.

Figure 3-1. Florida CLEC Market Share



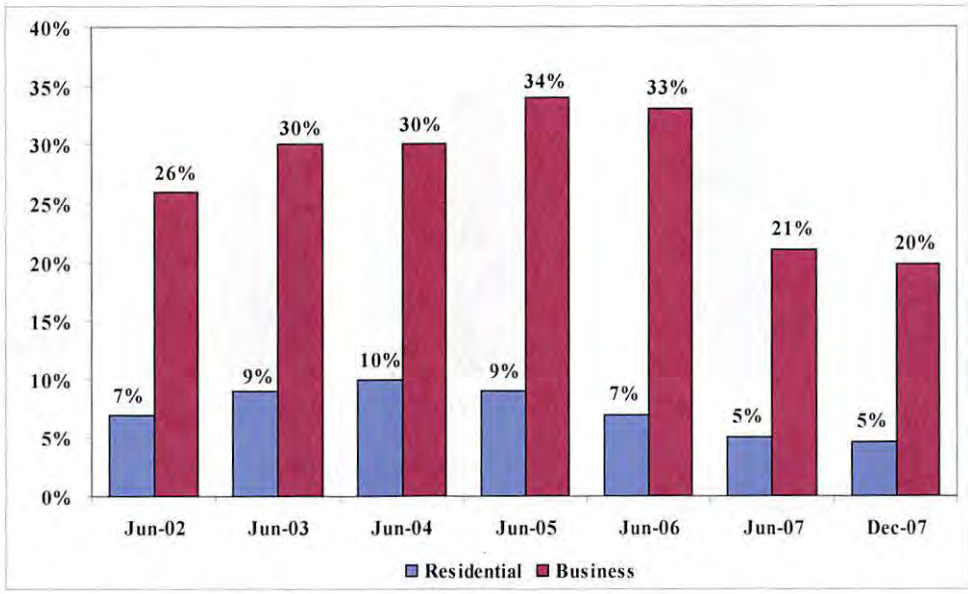
Source: Responses to 2002-2008 FPSC data requests.

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

- CLEC residential market share declined by 2 percentage points, from 7 percent in June 2006.

- CLEC business market share declined by 13 percentage points, from 33 percent since 2006.

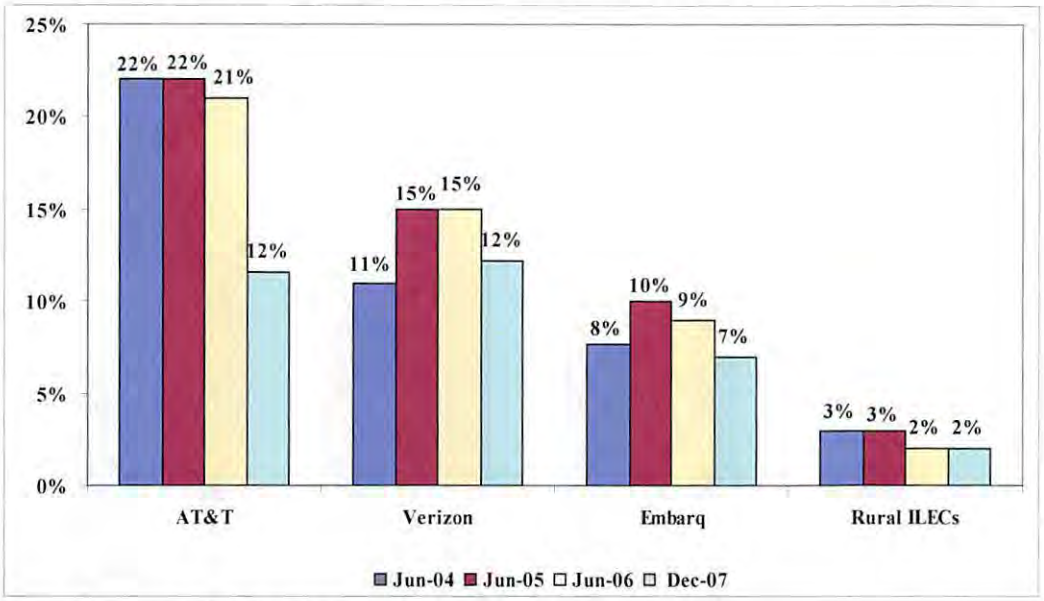
Figure 3-2. Florida Residential and Business CLEC Market Share



Source: Responses to 2002-2008 FPSC data requests.

Figure 3-3 displays the CLEC market share of combined residential and business lines within the service territories of AT&T, Verizon, Embarq, and the combined rural ILECs for 2004 through 2007. CLEC market share decreased in AT&T, Embarq, and Verizon territories but remained relatively unchanged in rural ILEC territories in 2007.

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



Source: Responses to 2004-2008 FPSC data requests.

b. National

According to the FCC's most recent report on local competition, the nationwide CLEC market share was 18 percent as of June 30, 2007.[53] The FCC reports Florida's CLEC market share at 13 percent, which is 2 percentage points greater than what the FPSC reports.[54]

2. Access Line Overview

Based on responses to the FPSC's 2008 Local Competition data request, local exchange companies were serving approximately 9.4 million lines in Florida as of December 31, 2007, a decline of 2.6 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, following a steady increase from 2001 through 2006, now appears to be declining.

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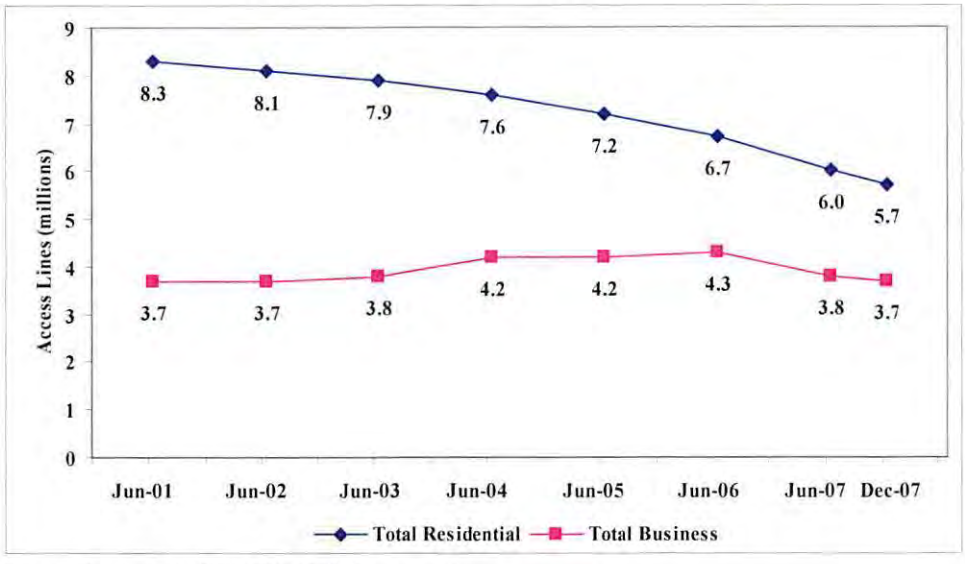
[53] FCC, "Local Telephone Competition: Status as of June 30, 2007," Table 7, May 2008, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280943A1.pdf>, accessed on May 29, 2008.
[54] Ibid.

Figure 3-4. Florida Access Line Trends



Source: Responses to 2001-2008 FPSC data requests

Table 3-2 displays the residential and business access line counts for ILECs and CLECs from 2005 to 2007. Between June 2006 and December 2007:

- Total access lines in Florida declined 15 percent.
- Total ILEC access lines decreased by 8 percent, reflecting a 13 percent decrease in residential lines and a 2 percent increase in business lines.
- Business lines accounted for 35 percent of total ILEC access lines in December 2007, an increase from 32 percent in June 2006.
- The number of CLEC access lines declined approximately 47 percent.

Table 3-2. Florida Access Line Comparison

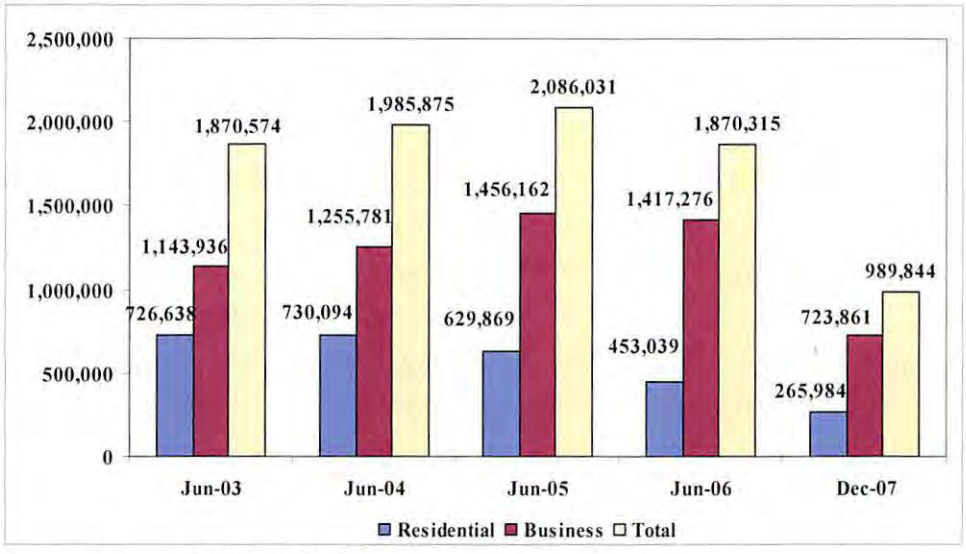
	Jun-05			Jun-06			Jun-07			Dec-07			Change from 2006
	Res	Bus	Total	Res	Bus	Total	Res	Bus	Total	Res	Bus	Total	
ILECs	6,641,069	2,789,512	9,430,581	6,218,002	2,863,989	9,081,991	5,710,851	2,994,073	8,704,924	5,428,994	2,928,128	8,357,122	<8%>
CLECs	629,869	1,456,162	2,086,031	453,039	1,417,276	1,870,315	300,226	774,833	1,075,059	265,984	723,861	989,844	<47%>
Total	7,270,938	4,245,674	11,516,612	6,671,041	4,281,265	10,952,306	6,011,077	3,768,906	9,779,983	5,694,977	3,651,989	9,346,966	<15%>

Source: Responses to 2004-2008 FPSC data requests.

Figure 3-5 graphically displays CLEC access line counts from 2003 to 2007.

- CLEC residential access lines declined by 187,055 from June 2006 to December 2007, or 41 percent in 2007.
- CLEC business access lines declined by 693,415 from June 2006 to December 2007, or 49 percent in 2007.

Figure 3-5. Florida CLEC Lines

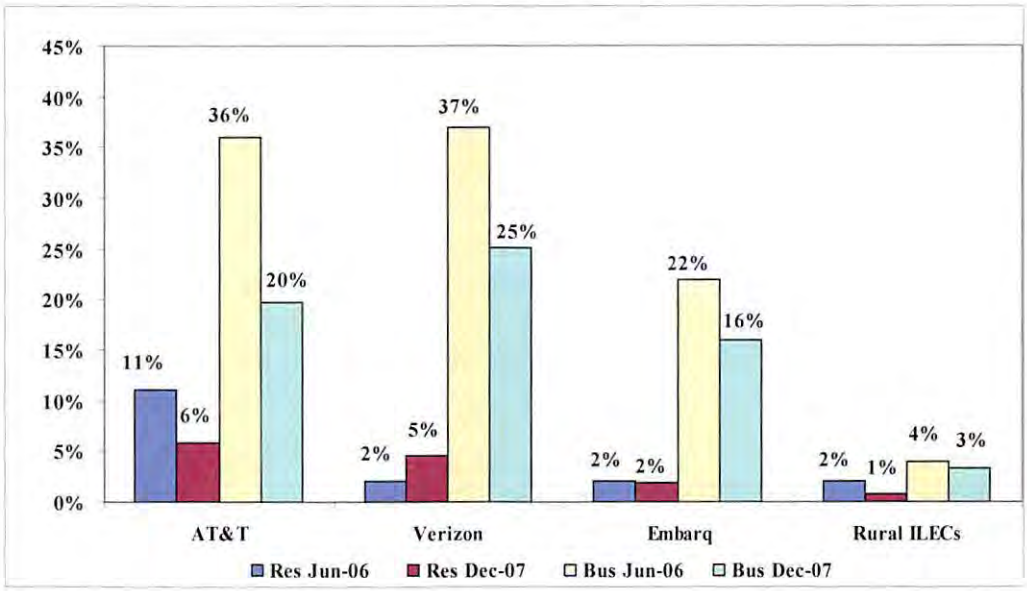


Source: Responses to 2001-2008 FPSC data requests.

3. CLEC Market Penetration by ILEC Territory

Figure 3-6 displays the CLEC residential and business market share by ILEC territory for 2006 and 2007. CLEC residential market shares declined in AT&T's territory and that of the rural ILECs, increased in Verizon's territory, and remained static in Embarq's territory. CLEC business market share declined in all ILEC territories. CLECs have their highest penetration rates in the business market, with a 25 percent share in Verizon's territory, followed by a 20 percent share in AT&T's territory, and a 16 percent share in Embarq's territory.

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



Source: Responses to 2006-2008 FPSC data requests.

4. Competitive Presence by Exchange

Table 3-3 lists the five Florida exchanges with the greatest number of CLEC providers, all in AT&T's territory. Verizon's Tampa exchange and Embarq's Tallahassee exchange are listed for comparison. The number of CLEC providers declined from 2006 levels in all exchanges for both business and residential categories. The decline was more pronounced for business providers, ranging from 44 percent in the Tampa exchange to 60 percent in Tallahassee. The decline in residential providers ranged from 17 percent in the Tallahassee exchange to 46 percent in Tampa. The number of providers has declined in all exchanges; however, a relatively high number of providers remain in the more populous exchanges.

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

Exchange	Rank by Total Access Lines	Residential		Business		Total CLECs	
		Jun-06	Dec-07	Jun-06	Dec-07	Jun-06	Dec-07
Miami	1	68	41	97	50	104	72
Orlando	6	55	42	91	45	101	69
Fort Lauderdale	3	69	42	92	45	102	66
West Palm Beach	4	59	44	92	40	104	65
Jacksonville	5	56	38	83	36	97	59
Tampa (Verizon)	2	35	19	55	31	57	44
Tallahassee (Embarq)	10	24	20	48	19	53	35

Source: Responses to 2006-2008 FPSC data requests.

C. Competitive Market Trends

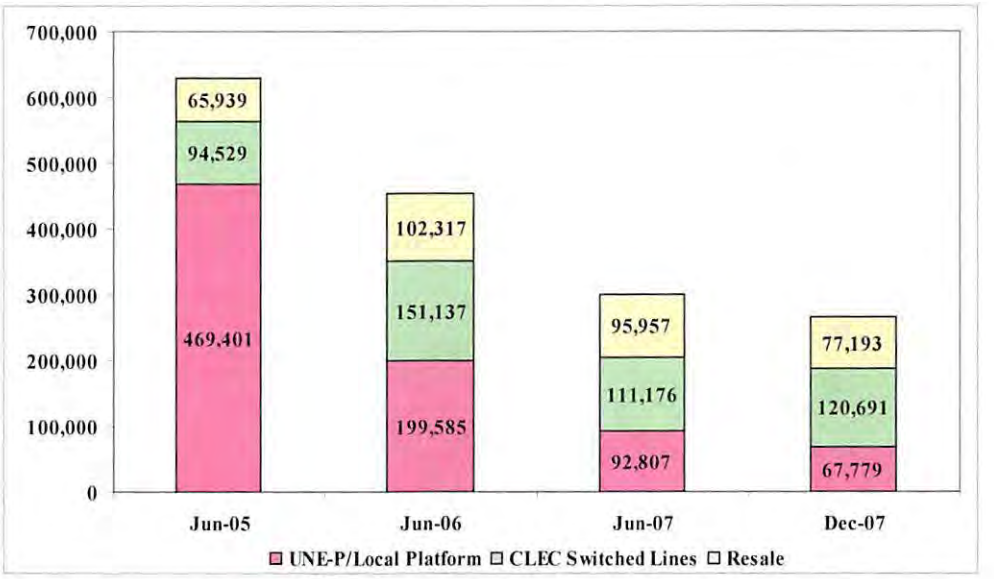
This section addresses CLEC provisioning methods and provides separate analyses of residential and business access lines.

1. CLEC Access Line Provisioning

The 2006 report noted the impact of the FCC's decision to eliminate certain UNEs (Unbundled Network Elements) that many CLECs had previously relied on to provide service to end users. The effect of the FCC's decision appears to have a continuing effect on the Florida CLEC community.

Figure 3-7 displays CLEC residential access lines by provisioning method from 2005 to 2007. The figure highlights the change in provisioning after UNE-P (Unbundled Network Element-Platform) was eliminated, as well as the overall decline in CLEC-provided residential access lines. The composition of CLEC business access lines has not changed significantly from 2005 to 2007.

Figure 3-7. Total Florida CLEC Residential Line Composition



Source: Responses to 2005-2008 FPSC data requests.

2. Residential Access Line Trends

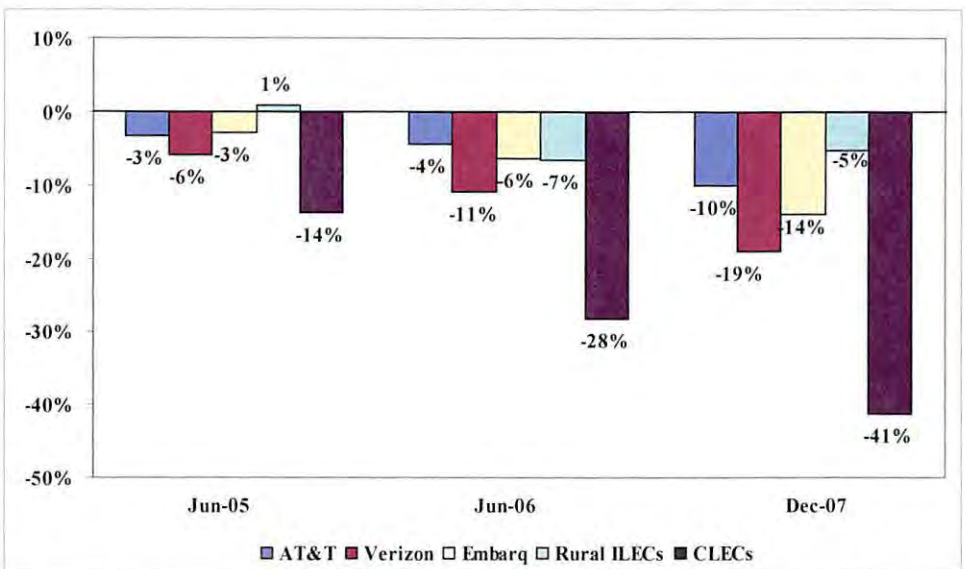
Figure 3-8 displays the residential access line trends separately for AT&T, Verizon, Embarq, the rural ILECs (in the aggregate), and the CLECs. CLECs in the aggregate reported a decline in total residential access lines. CLEC residential access lines declined by 187,055 lines, or 41 percent, between June 2006 and December 2007. The reclassification of ILEC-affiliated CLEC lines accounted for 934 lines of the total decline, approximately 0.5 percent.

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

Source: Responses to 2005-2008 FPSC data requests.

Figure 3-9 presents the percentage change of residential lines for the ILECs and CLECs. Residential access lines declined for most carriers at a greater rate in 2007 than in 2006. CLECs experienced a 41 percent decline from June 2006 to December 2007, compared with a 28 percent drop in 2006.

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

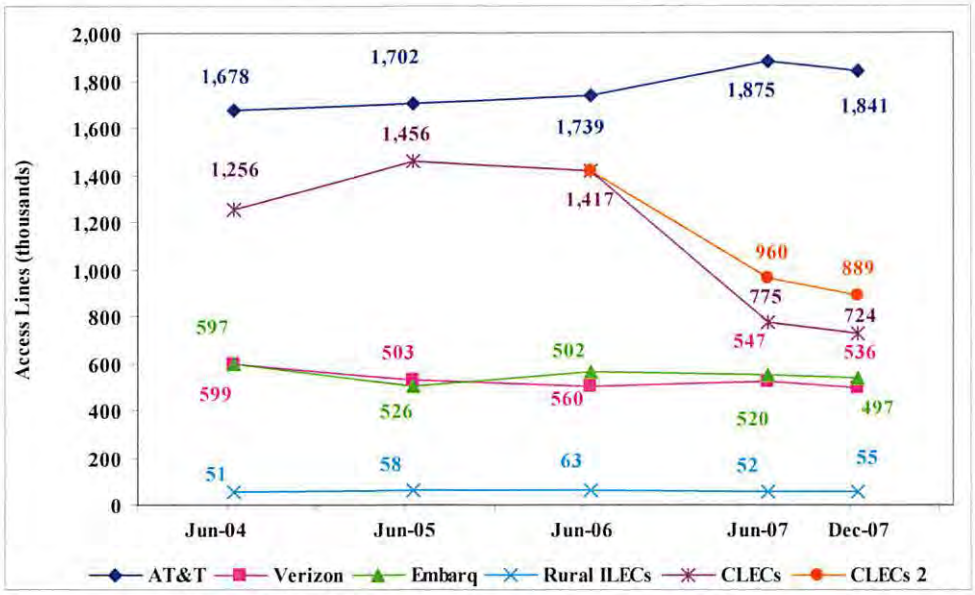


Source: Responses to 2005-2008 FPSC data requests.

3. Business Access Line Trends

Figure 3-10 displays the business line trends for AT&T, Verizon, Embarq, the rural ILECs, and CLECs. Verizon, Embarq, the rural ILECs, and the CLECs experienced a decrease in business access lines between 2006 and 2007.[55] The CLECs lost 693,415 business access lines (49 percent) between June 2006 and December 2007. ILEC-affiliated CLEC lines accounted for 164,773 of those lines (24 percent). Figure 3-10 also depicts CLEC business access lines with ILEC-affiliated CLEC lines included for June 2007 and December 2007 as represented by the line segment labeled CLECs 2.[56]

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



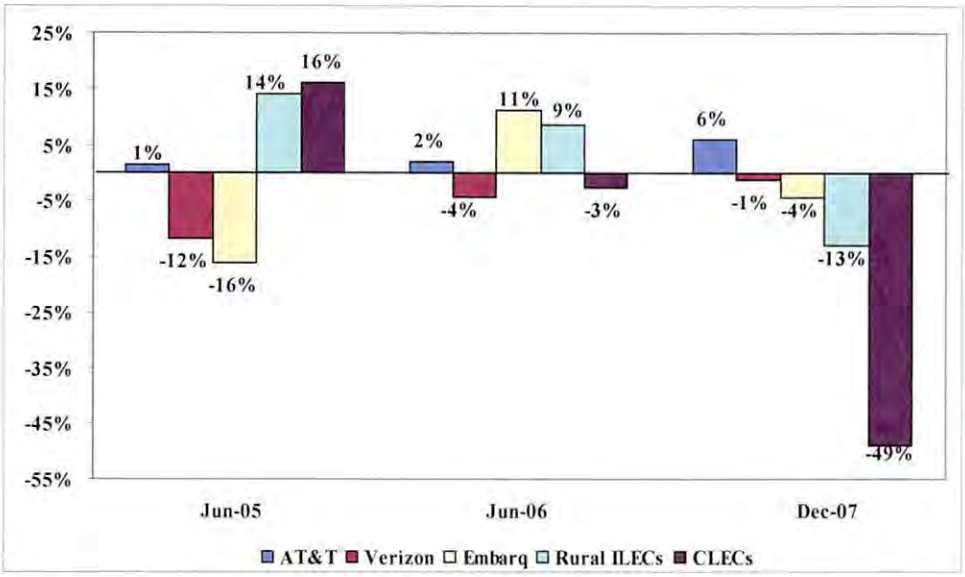
Source: Responses to 2004-2008 FPSC data requests.

[55] As a result of combining in-territory access lines of AT&T's former CLEC with its ILEC access lines, AT&T's combined business access lines reflect an increase from 2006 levels. However, when comparing ILEC-only and former CLEC-only access lines to 2006 levels, each have declined.

[56] ILEC business access lines would also be affected but for clarity only CLEC lines are reflected in this adjustment. All other graphs and bullets within the report reflect only the methodology discussed in Chapter III section A.4. Modified Methodology of this report.

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

Figure 3-11. Percentage Change of Florida Business Access Lines by ILECs and CLECs



Source: Responses to 2004-2008 FPSC data requests.

D. RURAL ILEC ACCESS LINE TRENDS

Total rural access lines declined by 16,861 in the period from June 2006 to December 2007, an 8 percent decline. Two companies, Smart City and TDS Telecom, experienced some access line growth.

1. Residential Access Lines

Rural residential access lines declined by 8,175 in the period from June 2006 to December 2007, a 6 percent decline. Each rural ILEC experienced some residential access line decline. Windstream and Frontier lost the greatest number of lines and lost the greatest percentage of residential access lines.

2. Business Access Lines

Rural business access lines declined by 8,686 in the period from June 2006 to December 2007, a 13 percent decline. Smart City and TDS Telecom each reported business access line gains for the period. Windstream reported the greatest loss of business access lines among rural carriers.

E. PAY TELEPHONE SERVICES

The pay telephone industry and the availability of pay telephone service in Florida have undergone a significant contraction over the past several years, up to and including the current year. According to the most recent FCC pay telephone data, the number of pay telephones in Florida continues to decline. Current industry estimates provided informally by the Florida Public Telecommunications Association (FPTA) indicate the estimated number has dropped to less than 24,000 deployed statewide as of March 28, 2008, a decline of 49 percent from March 2006. The number of certificated pay telephone service providers in Florida has also dropped from 584 as of December 31, 2002, to 233 as of December 31, 2007. These trends are an inevitable impact of the significant growth in wireless services over this period.

F. PREPAID TELECOMMUNICATIONS SERVICES

There is also a segment of the market served by CLECs that provide only prepaid services. CLECs that provide only prepaid residential wireline telephone service account for 24 of the 53 CLECs with less than 10,000 access lines or 44 percent. Prepaid only carriers serve 18 percent of the access lines of those carriers below 10,000 lines and 2 percent of total residential CLEC access lines.

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CHAPTER IV. WIRELESS, VOIP, CABLE, AND BROADBAND

A. WIRELESS

Increased subscribership and the development of new technologies characterize the wireless market. The emergence of smartphone technology and expanded wireless data capabilities are fueling continued growth and further blurring distinctions between voice and other wireless services. As previously noted, the availability of new wireless spectrum and the development of handsets with expanded capabilities have resulted in the creation of new applications and growth in demand for wireless technology. However, the primary focus of this report remains on voice communications.

The FCC defines a wireless subscriber as "a mobile handset, car-phone, or other revenue-generating, active, voice unit that has a unique phone number and that can place and receive calls from the public switched network."[57] The FCC's most recent statistics indicate that as of June 30, 2007, there were:

- 238.2 million total U.S. wireless subscriptions.
- 34.5 million new subscriptions nationally, a 17 percent increase since December 2005.
- 15.3 million total Florida wireless subscriptions.
- 2.7 million new subscriptions in Florida, a 21.4 percent increase since December 2005.[58]

Other sources indicate:

- The percentage of wireless-only households, now estimated at 15.8 percent, has tripled since 2004.[59] The percent of individuals living in wireline-only households is 21.8 percent or about half of what it was in 2004.[60]
- The percentage of individuals living in U.S. households with wireline service, 80.6 percent, has decreased as the percentage of individuals living in U.S. households with wireless phones, 74.6 percent, has increased.[61]

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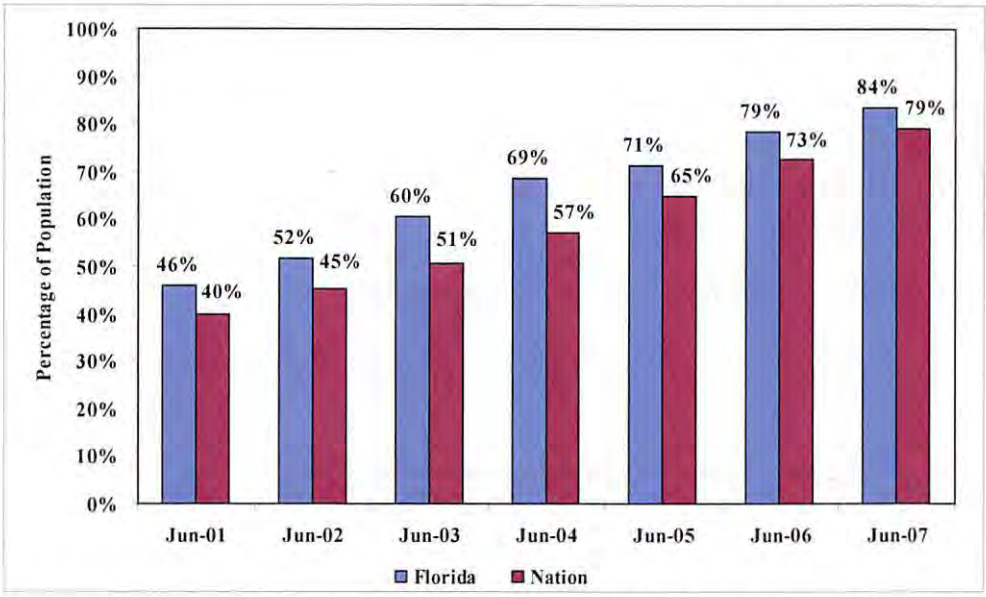
[57] FCC, Form 477, "Instructions for March 1, 2008 Filing, (of data as of December 31, 2007)," <http://www.fcc.gov/Forms/Form477/477instr.pdf>, accessed on January 22, 2008.
[58] FCC, "Local Telephone Competition: Status as of June 30, 2007," < http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280943A1.pdf >, accessed on April 16, 2007.
[59] Stephen J. Blumberg and Julian V. Luke, "Wireless Substitution: Early release of Estimates for the National Health Interview Survey, July-December 2007," Centers for Disease Control, National Center for Health Statistics, May 13, 2008, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200805.pdf>, accessed on May 14, 2008.
[60] FCC, "Local Competition: Status as of June 30, 2007," Op. Cit.
[61] Blumberg and Luke, Op. Cit.

- Spending on wireless services in 2007 was expected to exceed spending on wireline services for the first time.[62]

The gap between national subscribership and Florida subscribership has decreased slightly from June 30, 2006 to June 30, 2007. Florida's wireless subscription rate of 84 percent continues to exceed the national average of 79 percent, as seen in Figure 4-1.[63]

Figure 4-1. Wireless Subscription as Percentage of Population



Source: FCC, Local Telephone Competition: Status as of June 30, 2007, U.S. Census Bureau, State Population Estimates

Previous editions of this report presented wireless subscription data using December data points. In order to include the most recent data available, this year's report shows annual data as of June 30. The June data show a relatively smooth upward progression each year. This smoothness does not exist when using December data points. See Appendix G for a more detailed comparison of June versus December subscription data.

Figure 4-2 shows that Florida wireless subscriptions have continued to surpass Florida wireline subscriptions.[64] The number of wireless handsets in Florida has increased significantly over the number of wireline access lines in the state, and the gap appears to be widening. Local exchange company access lines in Florida have declined 18 percent since the end of 2005, while

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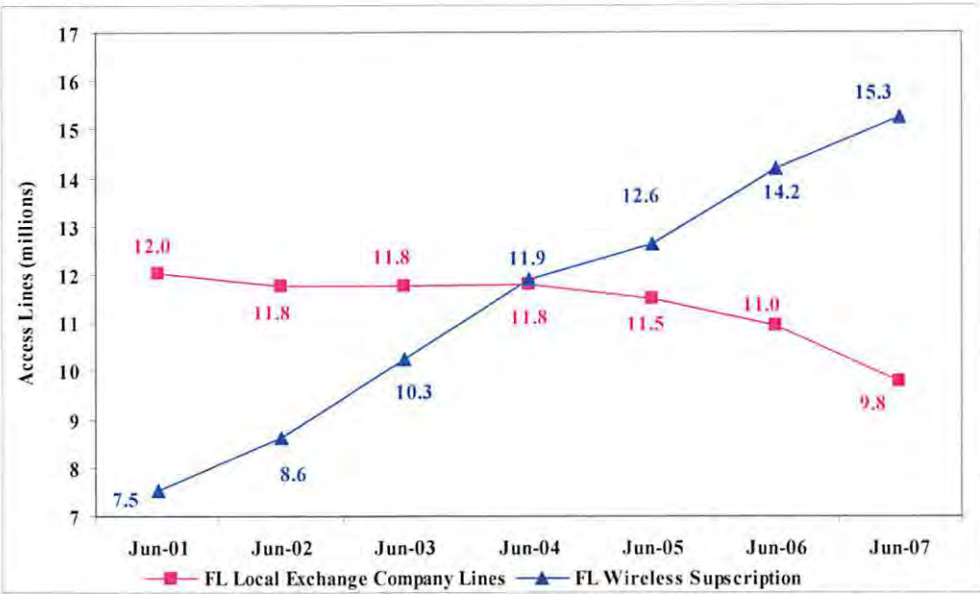
[62] Dibya Sarkar, "Cell Phone Spending to Top Land Lines," Associated Press, updated December 18, 2007, <http://www.cnn.com/2007/TECH/ ptech/12/18/cell.phone.spending.ap/index.html>, accessed April 18, 2008.

[63] FCC, "Local Telephone Competition: Status as of June 30, 2007, Table 14, <http://www.fcc.gov/wcb/iatd/comp.html>, accessed on April 16, 2007.

[64] FCC, "Local Telephone Competition: Status as of December 31, 2006 & June 30, 2007," Table 14, <http://www.fcc.gov/wcb/iatd/comp.html>, accessed on April 16, 2007.

wireless subscriptions have increased by 21 percent during the same time period.[65] Wireless handsets outnumbered wireline access lines by 3.8 million as of December 2006, and in the first six months of 2007, this number increased to more than 5.8 million.[66] Florida wireless subscribership increased by 2.2 million subscribers from December 2005 to December 2006, and increased by approximately 500,000 in the first six months of 2007.[67]

Figure 4-2. Florida Local Exchange Access Lines v. Wireless Subscription



Source: FCC, Local Telephone Competition: Status as of December 31, 2006 and June 30, 2007

According to recent data from the CDC, an estimated 15.8 percent of U.S. households used at least one wireless phone and had no active wireline telephone in the fourth quarter of 2007 (dubbed "wireless-only households" by the CDC).[68] This percentage varies widely among different demographics. The following groups have wireless-only subscription percentages above the national average:

- 34.5 percent of adults ranging from 25-29 years of age

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[65] FCC, "Local Telephone Competition: Status as of December 31, 2006 & June 30, 2007," Tables 7, 9, 10, 14, <httpp://www.fcc.gov/wcb/iatd/comp.html>, accessed on April 16, 2007; FPSC, responses to 2001-2008 Local Competition data requests.

[66] FCC, "Local Telephone Competition: Status as of December 31, 2006 & June 30, 2007," Tables 7, 9, 10, 14, <http://www.fcc.gov/wcb/iatd/comp.html>, accessed on April 16, 2007; FPSC, responses to 2001-2008 Local Competition data requests.

[67] FCC, "Local Telephone Competition: Status as of December 31, 2006 and as of June 30, 2007," Tables 7, 9, 10, and 14, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280943A1.pdf>, accessed on March 20, 2008.

[68] CDC, "Wireless Substitution: Early Release of Estimates for the National Health Interview Survey, July-December 2007," May 13, 2008, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200805.pdf>, accessed on May 14, 2008.

- 30.9 percent of people renting their home
- 30.6 percent of adults below age 25
- 27.4 percent of adults living in poverty
- 15.9 percent of adult males
- 13.2 percent of adult females

The following segments of wireless-only households, as reported by the CDC, are of particular interest to Florida:

- 56.9 percent of unrelated adults living together without children
- 28.9 percent of full-time students[69]
- 19.3 percent of Hispanics
- 17.1 percent of adults living in the South[70]

In 2007, the CDC added a new question to the survey for persons living in families with both wireline and wireless telephones. Respondents were asked to consider all of the telephone calls that their family receives and to report whether "all or almost all calls are received on wireless phones, some are received on wireless phones and some on regular phones, or very few or none are received on wireless phones." Based on responses to this question, the CDC created a "wireless-mostly" household category defined as households with both wireline and wireless telephones in which residents receive all, or almost all, calls on wireless phones. As of December 2007, the CDC estimates that 14.3 percent of adults living in wireline households with wireless phones in the South report that "all or almost all calls are received on wireless phones." No information regarding the reasons "wireless-mostly" households maintain a wireline phone is currently collected.[71]

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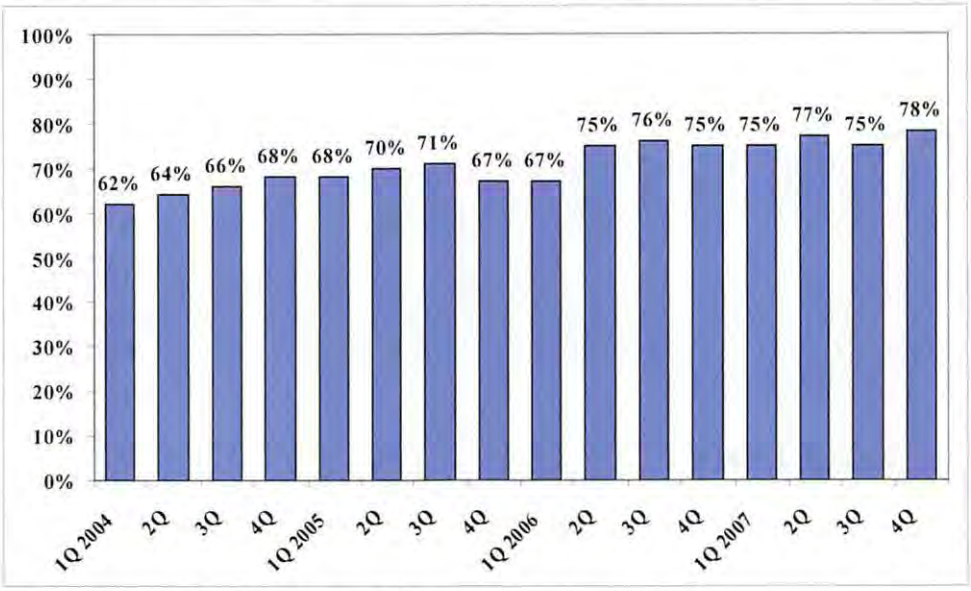
[69] A full time student is defined as someone who selected "Going to school" as a response when prompted for Employment status. Other possible responses were: "Working at a job or business, Keeping house, Something else (incl. unemployed)."

[70] The National Center for Health Statistics has included the following states in its South region: South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas.

[71] Stephen J. Blumberg, Ph.D., and Julian V. Luke, "Questionnaire Changes in 2007," CDC, National Center for Health Statistics, posted May 13, 2008, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200805.htm#Changes>, accessed May 15, 2008.

Figure 4-3 shows survey results of Florida wireline households asked if there is also a wireless subscription in the household. As of December 2007, Florida's percentage of households with wireless subscriptions, among wireline subscribing households, reached a new high of 78 percent.

Figure 4-3. Florida Wireline Subscription to Wireless Telephone Service



Source: BEBR Consumer Surveys on behalf of FPSC.

1. Wireless Subscription Adjusted

A recent report by In-Stat[72] suggests that wireless subscription rates may be overstated since the use of multiple handsets has not yet been reflected in subscription rates reported for the wireless industry.[73] Wireless subscription is generally calculated by dividing the total number of wireless telephone numbers by the total population. The report states the potential overstatement may have accounted for as much as 17.6 percent of wireless subscribers in 2006 and 25.1 percent of wireless subscribers in 2007 due to individuals who use two or more wireless telephones. Applying the In-Stat 2007 estimate to the latest FCC data (from June 30, 2007) suggests an estimated 59.8 million nationwide and an estimated 3.8 million Florida wireless subscribers, had more than one wireless telecommunications device in 2007. Adjusting 2007 Florida penetration for the In-Stat estimate of users with two handsets results in a Florida wireless subscription

[72] In-Stat is a research and consulting company.

[73] Jill Meyers, "Multiple Handsets Mean Greater Potential Market for Cellular," In-Stat (A unit of Reed Business Information), November 30, 2007, <http://www.instat.com/infoalert.asp?Volname=Vol.%20%23%20175#item1>, accessed on January 12, 2008.

figure of 63 percent. The implication of the adjustment is that a potential saturation point for wireless handsets may be farther in the future than some analysts have predicted.

B. VOICE OVER INTERNET PROTOCOL (VOIP)

Competitive VoIP providers bring different voice telephony service choices to Florida consumers. Market share data for such providers is limited because many of these companies are not certificated by the FPSC, and VoIP is an unregulated service in Florida. However, based on publicly available information, an estimated one million Florida customers subscribe to VoIP service. Estimating business VoIP subscribers is more difficult. Level 3 Communications, a carrier that provides backbone and other services to other carriers as well as large business customers, reported significant numbers of VoIP lines. However, since the vast majority of those Level 3's reported lines are provided to other carriers whose mix of residential and business end users is unknown, the Commission is unable to quantify the business sector with any degree of confidence. Certificated CLECs reported VoIP access lines, but that number represents an unknown percentage of the total market.

The following market analysis uses some nationally available data and some limited Florida-specific data. This analysis focuses on facilities-based VoIP services, such as services provided by cable companies and certificated CLECs, and over-the-top VoIP providers such as Vonage and AT&T's CallVantage.

1. National Market

A report released in September 2007 by TeleGeography, a market research and consulting company specializing in the communications industry, estimates that U.S. consumer VoIP subscribership (combined over-the-top and facilities-based) has "soared from 6.5 million in mid-2006 to 11.8 million by the second quarter of 2007."[74] According to the Telecommunications Industry Association's (TIA's) 2008 Telecommunications Market Review and Forecast, the number of residential U.S. VoIP subscribers has tripled over the last two years to 15.9 million.[75] Both TIA and the Yankee Group forecast continued rapid growth for VoIP telephony through 2011.[76] The top five VoIP providers, based on number of subscribers, are:

- Comcast Corp. 4.38 million subscribers[77]
- Time Warner Cable 2.90 million subscribers[78]

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[74] "US VoIP Market is Growing Fast—But Europe is Growing Faster," TeleGeography, September 6, 2007, <http://www.telegeography.com/wordpress/?p=59>, accessed on February 6, 2008.
[75] Tom Burton, "Twenty percent annual growth for VoIP," February 25, 2008, <http://www.fiercevoip.com /story/twenty-percent-annual-growth-for-voip/2008-02-25>, accessed on February 25, 2008.
[76] Patrick Monaghan and Boyd Peterson, "Growing Pains Persist in an Adolescent Market: Yankee Group's 2007 U.S. Consumer VoIP Subscriber Forecast," Yankee Group, July 2007, p. 5.
[77] Comcast Corporation, "Financial Tables," Comcast Reports Fourth Quarter 2007 Results, February 2008, <http://media.corporate-ir.net/media_files/irol/11/118591/Earnings_4Q07/Q407.htm>, accessed on February 18, 2008.
[78] Time Warner Inc, "Financial Results," Time Warner Inc. Reports For 2007 Full Year and Fourth Quarter,

- Vonage Holdings Corp. 2.58 million subscribers[79]
- Cox Communications 2.38 million subscribers[80]
- Cablevision Systems Corp. 1.59 million subscribers[81]

a. Over-the-Top VoIP Providers

Most data for the over-the-top VoIP market is not in the public domain. Moreover, providers of this type are typically not certificated with state commissions making it even more difficult to research and report market share data for this segment of the VoIP market. The following data from 2006 offers some insight as to the status of competition from this segment of the VoIP market. Telephia, a research and performance management company, estimated that over-the-top VoIP subscribership increased to 3.9 million in the U.S. in fourth quarter 2006 from 2.9 million in second quarter 2006. The estimate excludes cable providers that typically do not market their service as VoIP and excludes providers offering free or pay-per-call services (e.g., Skype). The estimate includes the subscribership for Skype's paid subscription service. Telephia listed the top five over-the-top VoIP providers in order of their estimated U.S. market shares as of fourth quarter 2006:

- Vonage 48.1%
- AT&T CallVantage 7.4%
- Skype 5.5%
- SunRocket 5.5%
- Packet 8 (8x8) 4.4% [82]

Vonage is still the leader of the over-the-top VoIP market.[83] Vonage recently announced a strategic relationship with Covad Communications Company, a leading national provider of integrated voice and data communications, which will enable Vonage to provide its customers

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February 2008, <http://files.shareholder.com/downloads/TWX/235094534x0x166405/85024152-00de-438e-be35-a78cd1ed3ca9/q407earningsrelease.pdf>, accessed on February 6, 2008.

[79] Vonage Holdings Corp., "Financial Results," Vonage Holdings Corp. Reports Fourth Quarter and Full Year 2007 Results, February 2008, <http://pr.vonage.com/releasedetail.cfm?ReleaseID=294105>, accessed on February 13, 2008.

[80] Cynthia Brumfield, "Cable Telephony Tops the 13-Million Mark," Emerging Media Dynamics, Inc., (EMDI) – IP Democracy, March 5, 2008, <http://www.ipdemocracy.com/archives/2008/03/05/#002899>, accessed on March 5, 2008.

[81] Cablevision Systems Corporation, "SEC Form 10-K Annual Report," Cablevision's Annual Report for Fourth Quarter 2007, February 2008, <http://www.sec.gov/Archives/edgar/data/784681/000110465908013859/a08-2326_110k.htm>, accessed on March 19, 2008.

[82] E-mail sent to FPSC staff from Telephia analyst, May 1, 2007, containing fourth quarter 2006 estimates.

[83] Gee L. Lee, "Vonage Holdings Auditor Raises Going Concern Doubt ," *The Wall Street Journal*, March 17, 2008, <http://online.wsj.com/article/BT-CO-20080317-716321.html>, accessed on March 24, 2008.

with a broadband solution using Covad's nationwide DSL network.[84] SunRocket discontinued service without warning in the third quarter of 2007, leaving about 220,000 customers without service.[85] While challenges continue to exist for providers in this market segment, this type of VoIP service remains attractive to many consumers, most likely because of price. Innovative products from the existing over-the-top VoIP providers and from new entrants are other factors keeping this segment of the VoIP market alive. For example, new entrant Ooma offers lifetime voice service for a one-time fee of $249 and includes several calling features and power backup/E-911 service if existing wireline service is maintained.[86] Another example is magicJack LP, a wholly-owned subsidiary of Ymax Corp., which offers an enhanced over-the-top VoIP service for $19.95 annually (with a one-time fee of $20 for the actual magicJack USB plug-in device).[87]

b. Facilities-Based VoIP Providers

The top U.S. cable operators recently reported strong gains in VoIP subscribers. No cable provider experienced more growth in voice subscribers in 2007 than Comcast. Comcast reported 4.4 million digital voice subscribers in fourth quarter 2007, up from 721,000 reported for the second quarter 2006, a six-fold increase over six quarters. As noted previously, Time Warner Cable,[88] Cox Communications,[89] and Cablevision Systems Corp.[90] also experienced strong growth, accounting for a combined national subscribership of nearly 6.9 million, as of fourth quarter 2007.

Most cable companies are focusing their efforts on providing voice telephony via VoIP technology. However, some carriers, including Comcast and Cox, still provide legacy circuit-switched telephony to customers that eventually will be migrated to VoIP service.[91] The Yankee Group forecasts that there will be slightly more than 800,000 remaining circuit-switched cable telephony customers by 2011, a decline of 66 percent from 2.4 million cable provided circuit-

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[84] "Vonage and Covad Communications Announce Strategic Relationship to Deliver Vonage Broadband," Vonage Press Release, May 8, 2008, <http://pr.vonage.com/releasedetail.cfm?ReleaseID=308993>, accessed on May 8, 2008.

[85] Matt Richtel, "SunRocket Leaves Void for Callers on Internet," *The New York Times*, July 23, 2007, <http://www.nytimes.com/2007/07/23/technology/23sunrocket.html?ex=1342843200&en=860146d46e23c047&ei=5088&partner=rssnyt&emc=rss>, accessed on March 22, 2008.

[86] Ooma, "Buy: Frequently Asked Questions: Buying an Ooma System," "Learn: Frequently Asked Questions: Popular FAQs," <http://www.ooma.com/>, accessed on May 21, 2008.

[87] Ymax Corp is certificated as a CLEC in all 50 states, including Florida.

[88] Time Warner Inc, "Financial Results," Time Warner Inc. Reports For 2007 Full Year and Fourth Quarter, February 2008, <http://files.shareholder.com/downloads/TWX/235094534x0x166405/85024152-00de-438e-be35-a78cd1ed3ca9/q407earningsrelease.pdf>, accessed on February 6, 2008.

[89] Cynthia Brumfield, "Cable Telephony Tops the 13-Million Mark," Emerging Media Dynamics, Inc., (EMDI) - IP Democracy, March 5, 2008, <http://www.emediadynamics.com; http://www.ipdemocracy.com/archives/2008/03/05/#002899>, accessed on March 5, 2008.

[90] Cablevision Systems Corporation, "SEC Form 10-K Annual Report," Cablevision's Annual Report for Fourth Quarter 2007, February 2008, <http://www.sec.gov/Archives/edgar/data/784681/000110465908013859/a08-2326_110k.htm>, accessed on March 19, 2008.

[91] Comcast has reported that it will complete its transition of circuit-switched customers to VoIP nationwide by the end of 2008; it has completed that transition in Florida.

switched customers in 2006. The forecast also predicts cable companies will provide telephony to 23 percent of U.S. households by the end of 2011.[92]

The strong growth in VoIP telephony subscribership has been driven primarily by the cable providers. Comcast is now the fourth-largest voice service provider in the U.S., behind AT&T, Verizon, and Qwest, and slightly ahead of Embarq in number of residential telephone subscribers.[93] Comcast has also begun targeting small and medium business customers.[94]

Cable providers are not the only providers of facilities-based VoIP services. Verizon, the second-largest U.S. telecommunications company based on number of subscribers, currently provides traditional voice service as a component of its FiOS triple-play service offering. Verizon plans to offer FiOS VoIP service to deliver a full range of IP-based integrated services such as voice mail online and video enhanced IP-based calling.[95] AT&T, which is the largest U.S. telecommunications company based on its number of subscribers, has added VoIP service to its AT&T U-verse offering. Detroit is the first area in the nation where AT&T U-verse VoIP service is available.[96]

2. Florida Market

An accurate estimate of VoIP subscribers would require data from all cable companies providing VoIP telephony, other facilities-based providers such as certificated CLECs, and a complete accounting of all over-the-top providers. The FPSC lacks statutory authority to compel any VoIP providers to submit subscriber data. However, FCTA has reported data for its five largest VoIP providers. Vonage, the largest of the over-the-top providers, has reported its Florida subscribers, and a number of certificated CLECs have responded to the FPSC 2008 Local Competition data request. Based on this reported data, there are an estimated one million residential VoIP subscribers in Florida as of December 2007, a significant increase from the estimated 662,000 subscribers as of May 31, 2006. The number of estimated residential VoIP lines in Florida is nearly four times the CLEC reported residential wireline access line total. As previously noted, business market estimates are not possible given the paucity of information for that sector of the market. Figure 4-4 shows the composition of the Florida residential VoIP market based on the FPSC estimates provided as of June 2006 and December 2007.

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[92] Monaghan and Peterson, "Growing Pains Persist in an Adolescent Market: Yankee Group's 2007 US Consumer VoIP Subscriber Forecast," Yankee Group, July 2007, p. 9.

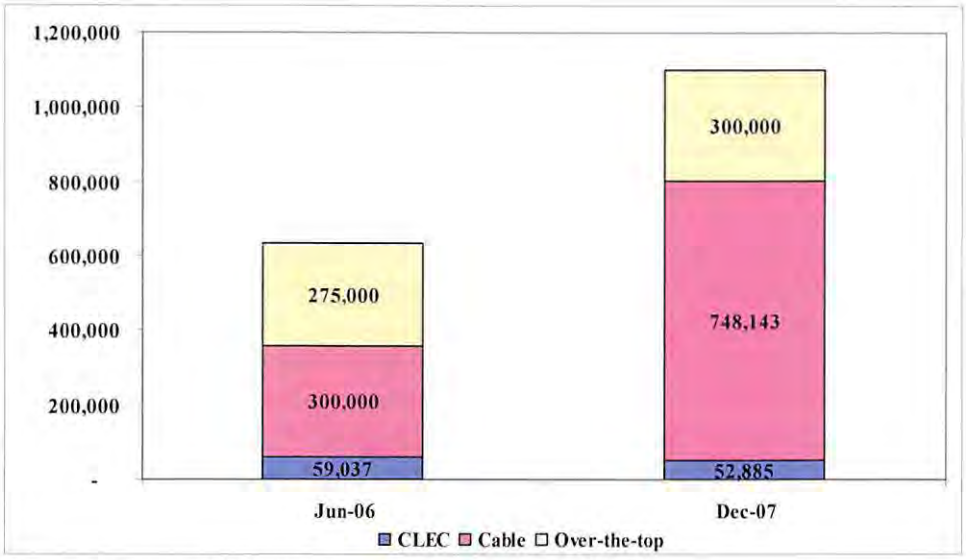
[93] "Move Over Bells: Comcast Corporation Becomes The Fourth-Largest Phone Service Provider In The U.S.," Comcast Corporation Press Release, January 8, 2008, <http://www.comcast.com/About/PressRelease/PressReleaseDetail.ashx?PRID=721>, accessed on March 24, 2008.

[94] Jeff Baumgartner, "Comcast Aims for SMBs," Light Reading's Cable Digital News, February 29, 2008, <http://www.lightreading.com/document.asp?doc_id=147325>, accessed on April 2, 2008.

[95] Cynthia Brumfield, "Verizon Plans to Launch FiOS VoIP Service," IP Democracy, March 22, 2006, <http://www.ipdemocracy.com/archives/001317verizon_plans_to_launch_fios_voip_service.php>, accessed on March 22, 2006.

[96] AT&T (Press Release), "AT&T U-verse Voice Debuts in Detroit," *The Wall Street Journal*, January 22, 2008, <http://online.wsj.com/public/article/PR-CO-20080122-905380.html?mod=crnews>, accessed on February 22, 2008.

Figure 4-4. Estimated Florida Residential VoIP Access Lines



Source: Responses to 2006-2008 FPSC data request

a. Over-the-Top VoIP Providers

Over-the-top VoIP providers, such as Vonage and AT&T CallVantage, are not certificated CLECs in Florida and, therefore, are not subject to the FPSC data request. One certificated CLEC and one ILEC VoIP provider in Florida refused to divulge the requested information based on the FPSC's lack of jurisdiction over VoIP-based service. In 2006, Vonage reported 148,936 subscribers with Florida billing addresses as of September 1, 2006. Vonage filed its response to this year's request as confidential. Vonage is still experiencing growth in Florida based on its reported January 1, 2008, Florida subscription data.[97] Vonage's reported subscriber growth for Florida exceeds total company growth over comparable periods. This growth may be due, in part, to Florida's unique demographic characteristics that include a significant immigrant population, seasonal residents, and several large state universities. These groups generally have greater international and interstate calling needs for which Vonage and other over-the-top VoIP providers provide significant savings.

b. Facilities-Based VoIP Providers

The FCTA provided a count of its member companies' residential cable telephony subscribers. The FCTA responded, on December 20, 2007, that its five largest member companies collectively have 748,143 Florida residential cable telephony subscribers, which

[97] Vonage provided Florida subscribership data on a confidential basis on March 27, 2008.

include traditional circuit-switched and VoIP subscribers,[98] usually marketed as digital voice service. Bright House reported approximately 500,000 of that total as of December 2007.[99]

In response to the 2008 FPSC Competition Report data request, 30 CLECs and 1 ILEC reported VoIP line counts to the FPSC. Sixteen residential providers reported data in 2006 and thirteen in 2007. Twenty-four business providers reported data in 2006 and twenty-six in 2007. CLECs reported 52,885 residential VoIP subscribers and 32,649 business VoIP subscribers for 2007. One certificated CLEC and one ILEC reported that they provided VoIP services to end users but elected not to provide subscription data, citing Florida law that exempts VoIP from FPSC jurisdiction.[100]

There are likely to be more than one million residential VoIP subscribers in Florida. Some providers and an unknown number of over-the-top providers are not accounted for.[101] Level 3 Communications, Inc., a competitive CLEC specializing in provision of wholesale VoIP services to other carriers, reported over 600,000 VoIP lines in Florida. Other carriers, both ILECs and CLECs, also provide wholesale services to Florida carriers. The existence of other wholesale providers suggests that the estimated number of Florida VoIP end users is conservative.

C. BROADBAND

Broadband adoption has continued to increase both nationally and in Florida since the FPSC's last competition report. The market for broadband service is maturing and evolving. As a result, consumers have been able to choose among different speeds and prices, depending on where they live. Not surprisingly, consumers in urban and metropolitan areas have the greatest array of options. The availability of broadband to consumers has increased slightly from 2006. In Florida, high-speed DSL connections were available to 89 percent of the households to which ILECs could provide local telephone service.[102] High-speed cable modem service was available to 97 percent of the households to which cable system operators could provide cable TV service.[103] These availability rates exceed the comparable national averages.[104]

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[98] The 748,143 reported cable telephony lines for 2007 include a small percentage of circuit-switched lines that have since been transitioned to VoIP or discontinued. An exact number was not provided.

[99] William E. Taylor and Harold Ware, "Intermodal Competition in Florida Telecommunications," NERA Economic Consulting, March 2008, p. 27.

[100] Section 364.013, F.S., states "the provision of voice-over-Internet-Protocol (VoIP) shall be free of state regulation."

[101] Based on the confidential data filed by Vonage and past forecasts of the size of the national market for over-the-top providers, FPSC staff estimates the size of the Florida over-the-top market to be approximately 300,000. FPSC staff believes this estimate to be conservative.

[102] FCC, "High-Speed Services for Internet Access: Status as of June 30, 2007," March 2008, Table 14, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280906A1.pdf>, accessed on May 1, 2008.

[103] Ibid.

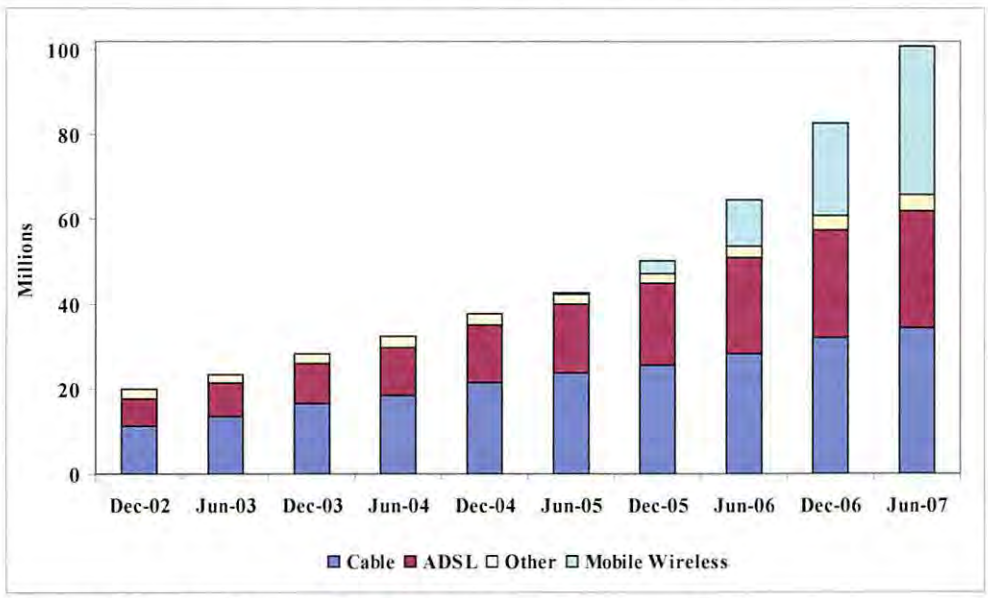
[104] Ibid, the national average for DSL availability was 82 percent while cable modem service availability was 96 percent for June 30, 2007.

1. Nationwide Trends in the Broadband Market

The FCC has adopted a wide range of speeds to define broadband. The FCC's definition of a "high-speed" or "first generation" broadband connection is considered a connection that exceeds 200 kilobits per second (kbps) in one direction.[105] Using this definition, cable and wireline telecommunications providers have maintained a steady expansion of broadband subscribers. Cable and wireline telecommunications providers have added approximately one to three million broadband subscribers every six months for the past four years. As of June 30, 2007, there were approximately 34 million cable modem subscribers in the U.S. By comparison, the ILECs broadband market share represented approximately 28 million Asymmetric Digital Subscriber Line (ADSL) subscribers.

The fastest growing segment of the market is broadband provisioned by mobile wireless providers. By the end of 2005, mobile wireless broadband represented 3.1 million high-speed connections.[106] By the end of the first half of 2007, mobile wireless broadband represented 35.3 million connections, or 35 percent of the total broadband market. Data from the FCC indicates that 84 percent of these wireless broadband connections are business connections. The "other" category in Figure 4-5 includes Symmetric Digital Subscriber Line (SDSL), fiber, satellite, fixed wireless, and broadband over power lines. While this "other" category has seen little growth, broadband deployment from fiber represents the fastest growth segment in this category.

Figure 4-5. U.S. Broadband Subscription



Source: FCC High-Speed Services for Internet Access Report, various years, Table 1

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[105] FCC 08-88, GN Docket No. 07-45, Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, Fifth Report, released June 12, 2008, ¶¶ 2-3.

[106] Ibid, Table 1.

As the broadband market expands, broadband providers are using technology to differentiate their products, primarily in terms of speed and price. Table 4-2 identifies the percentage of national broadband connections by broadband speeds and technology. By segmenting the broadband market by speed, it is evident that broadband provided by mobile wireless technology has 83 percent of the market for broadband exceeding 200 kbps in only one direction. This segment represents the slowest segment of broadband services. By comparison, 72 percent of the lines that provide greater than 2.5 megabits per second (Mbps) speeds are provided by cable modem services.

Table 4-1. Broadband Connections by Speed and Technology

	Exceeding 200 kbps in only one direction	Exceeding 200 kbps in both directions, and	
		Greater than 200 kbps and less than 2.5 Mbps in the faster direction	Greater than or equal to 2.5 Mbps in the faster direction
ADSL	13.18%	46.53%	24.89%
Cable	1.49%	14.10%	72.09%
Mobile Wireless	83.26%	33.00%	0.01%
Fiber	0.01%	0.77%	2.85%
Satellite	1.95%	0.20%	0.00%
Other	0.05%	5.43%	0.14%

Source: FCC High-Speed Services for Internet Access Report, Tables 1 and 5

Broadband availability has also increased nationally in the last year. FCC statistics show that high-speed Digital Subscriber Line (DSL) connections were available to 82 percent of households within ILEC service territories.[107] High-speed cable modem service, by comparison, was available to 96 percent of households within cable service territories nationwide.[108]

The National Exchange Carriers Association (NECA) recently reported on the progress of the 1,114 rural telephone companies that participate in its Traffic Sensitive pool. The rural nature of these companies is illustrated by the fact that they provide service to less than four percent of U.S. access lines while covering almost 40 percent of the U.S. land mass.[109] The number of such rural companies offering DSL increased from 151 in 1999 to 1,054 in 2007, and the number of rural DSL lines over this same period increased from 20,000 to 1.1 million.[110] Within the last year, these carriers have increased the number of DSL lines by approximately 470,000.[111] While such growth represents progress, the goal remains to expand broadband service to the full six million access lines covered by rural companies.[112]

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[107] Ibid, Table 14.
[108] Ibid.
[109] National Exchange Carriers Association, "Trends 2007 Building Tomorrow's Network," p. 5, <http://www.neca.org/media/Trends2007_final_web.pdf>, accessed on May 1, 2008.
[110] Ibid, p. 10.
[111] Ibid, difference reported from NECA, Trends 2006 report, p. 20 and Trends 2007, p. 10.
[112] Ibid, p. 5.

2. The Florida Broadband Market

The most recent FCC broadband report, "High-Speed Services for Internet Access," ranks Florida fourth nationally in terms of states with the most high-speed lines.[113] Florida's broadband line count was lower only than those of California, New York, and Texas. The FCC statistics show that Florida's broadband line count reached approximately 6.3 million as of June 30, 2007, up from 4.4 million the prior year.

The FCC data also indicate that the number of residential high-speed data lines in Florida grew by 30 percent over the 12 months period ending June 30, 2007.[114] This growth is slightly less than the U.S. residential broadband growth of 31 percent. Business lines, both within the state and nationally, have seen the largest increase from the previous year. From June 2006 to June 2007, the number of business high-speed data lines increased by 100 percent within Florida, and approximately 145 percent nationwide.

The overall base of Internet subscribers is growing more slowly than the subset of broadband Internet subscribers, as shown in the monthly consumer surveys conducted on behalf of the FPSC by the Bureau of Economic and Business Research at the University of Florida. Internet penetration of Florida households with wireline phone service has improved 3 percent to 78 percent of Florida households for the fourth quarter of 2007.

The stability shown in the Internet penetration rate contrasts with the rapid shift from dial-up to broadband taking place in Florida and nationwide. Internet subscribers using dial-up connections are continuing to switch to broadband. Consumer survey results presented in Figure 4-6 show just how dramatically this transition is occurring. As of the fourth quarter of 2007, approximately 77 percent of Florida Internet subscribers had adopted broadband access, while 14 percent used dial-up services. This shift represents a significant change from only four years earlier when dial-up access exceeded broadband.

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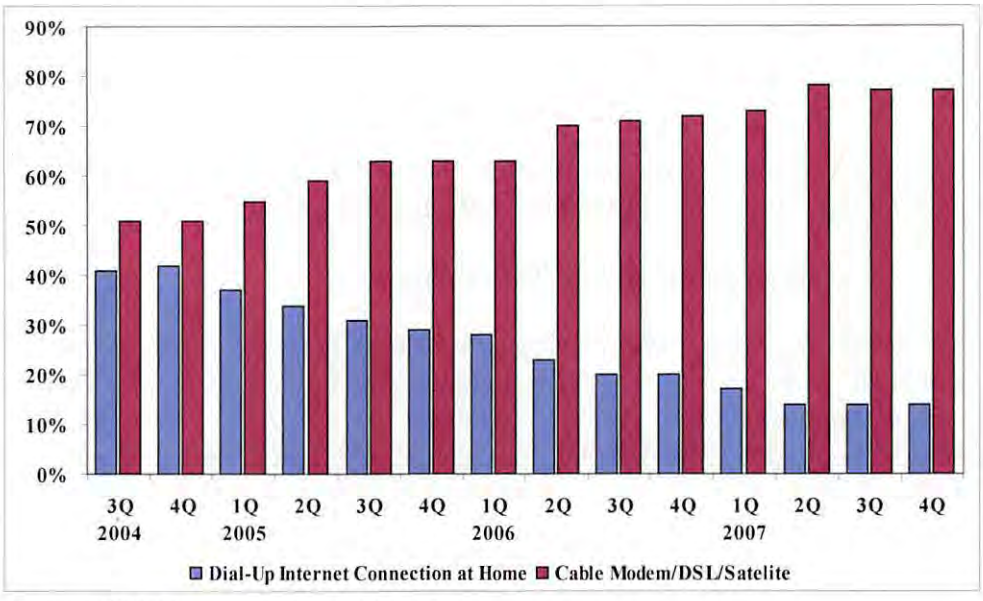
[113] Ibid, Table 13.

[114] FCC, "High-Speed Services for Internet Access: Status as of June 30, 2007," March 2008, Table 13, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280906A1.pdf>, accessed on June 2, 2008; FCC, "High-Speed Services for Internet Access: Status as of June 30, 2006," January 2007, Table 13, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-270128A1.pdf>, accessed on June 2, 2008.

Figure 4-6. Broadband v. Dial-Up Market Share in Florida



Source: BEBR Consumer Surveys on behalf of FPSC.

An essential precursor to the increasing broadband adoption noted above is increased broadband availability. FCC statistics show higher broadband availability in Florida than national averages. In areas where ILECs offer local telephone service, 89 percent of Florida consumers have access to DSL services compared to 82 percent nationally.[115] In areas where cable systems offer cable video service, 97 percent of Florida consumers have access to cable modem services compared to 96 percent nationally.[116] The notable difference between the DSL and cable modem service availability rates relates to the more ubiquitous deployment of telecommunications service both in Florida and nationally in comparison to cable services. The costs of providing broadband to those rural high-cost areas are reflected in the availability of DSL services. Only two states, Nevada and Georgia, had a higher percentage of available DSL service with 90 percent and 91 percent DSL coverage, respectively. Twelve states had a higher percentage of available cable modem service than Florida.[117]

More recent DSL availability levels have been provided by Florida's ILECs for the period ending December 2007. According to company filings, ILEC broadband service is available to the following percentage of residential households:

- Embarq 82%
- FairPoint 92%

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[115] Ibid, Table 14.
[116] Ibid.
[117] Ibid, Those states with higher cable modem service availability include Arizona, California, Connecticut, Idaho, Illinois, Maryland, Ohio, New York, New Hampshire, New Jersey, Massachusetts, and Michigan.

- ITS Telecom 100%
- Smart City 100%
- Windstream 86%

AT&T, Verizon, Frontier, Northeast Florida Telephone Company (NEFCOM), and TDS Telecom filed their broadband availability data as confidential.

3. Emerging Broadband Technologies

Progress continues in the development of both new and existing broadband technologies. The broadband market, which was once dominated by cable modem and DSL services, has seen significant market growth from mobile broadband technologies. While the market share of other broadband technologies remains small, innovation and technological advancements may lead to continued development of alternative broadband markets and applications.

a. Deployment of Fiber Optic Facilities

Fiber deployment is increasing throughout the United States and Florida. The increased demand for high bandwidth applications and the trend toward bundling of multiple services are key drivers in the increased usage of fiber networks. Fiber networks can provide voice, data, and high-definition video service.

According to one report,[118] fiber-to-the-home (FTTH) networks pass nearly 12 million U.S. homes as shown in Figure 4-7.[119] This figure represents roughly 10 percent of all homes in the U.S. Of those homes passed, only 25 percent (or nearly three million homes) connected to FTTH networks. Twenty-six percent of the FTTH connections were added from September 2007 to March 2008.[120] By comparison, data from the FCC indicates that there were only 1.4 million fiber lines that provided broadband services at the end of June 2007.[121] Those remaining FTTH customers receive voice or high-definition video services.[122] Of the Bell Operating Companies, Verizon has more FTTH subscribers than any other provider.[123]

Verizon's FTTH network connects fiber optic lines directly to the home or business, replacing the traditional "last mile" copper connections. Verizon refers to its fiber network to the customer premises as FiOS. By the end of 2007, 1.5 million Verizon customers were receiving

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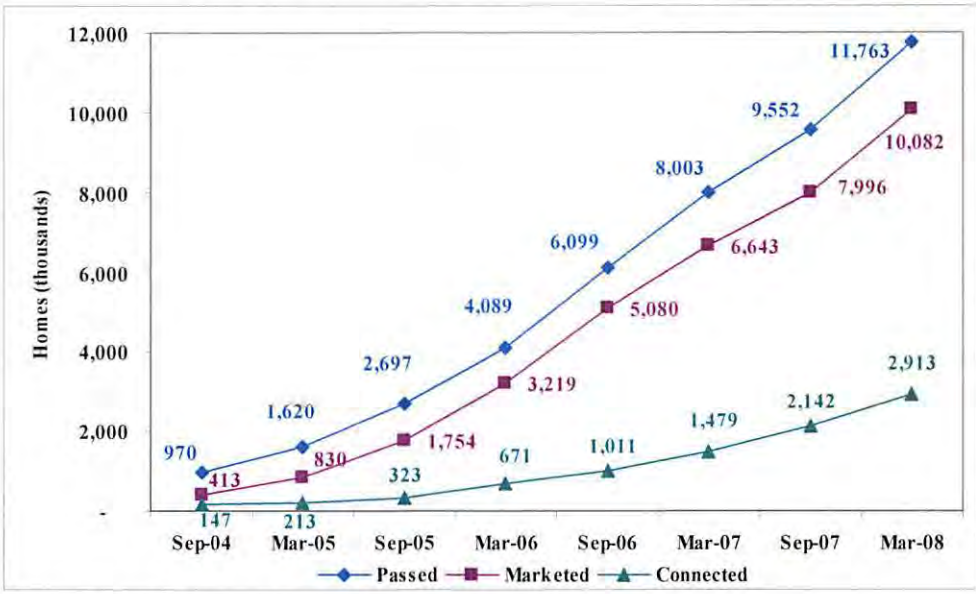
[118] Ed Gubbins, "FTTH Now Being Sold to 10M US Homes," Telephony Online, April 8, 2008, <http://telephonyonline.com/fttp/news/ftth-sold-us-homes-0408/>, accessed on April 24, 2008.
[119] Michael C. Render, "Fiber-to-the-Home Council, North America," RVA Market Research & Consulting, Slides 10-12, <http://www.ftthcouncil.org/documents/137785.pdf>, accessed on May 2, 2008.
[120] Ibid.
[121] FCC, "High-Speed Services for Internet Access: Status as of June 30, 2007," March 2008, Table 9, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280906A1.pdf>, accessed on May 1, 2008.
[122] Ed Gubbins, "Render Defends His FTTH Data," Telephony Online, October 22, 2007, <http://telephonyonline.com/fttp/news/rva_ftth_data_102207/index.html>, accessed on April 24, 2008.
[123] "Fiber to the Home Connections Jump to Nearly Three Million as Next-Generation Broadband Deployment Continues," FTTH Council, <http://www.ftthcouncil.org/?t=284>, accessed on May 8, 2008.

their broadband service over Verizon's all-fiber network, and 943,000 customers were subscribers to FiOS TV.[124] FiOS TV delivers digital video and music channels, high-definition programming, video-on-demand content, an interactive program guide, and other features. Of the customers who could get these services, 15.2 percent had purchased FiOS video subscriptions, and 20 percent had subscribed to FiOS Internet services.[125] Verizon reported that the market penetration for FiOS in the Tampa Bay area had exceeded its national average by a few percentage points.[126]

Figure 4-7. U.S. Fiber-to-the-Home Deployment



Source: RVA Market Research & Consulting.

In Florida, Verizon has deployed its FiOS network in 55 of its 90 wire centers, up from 26 from the FPSC's last report.[127] Verizon reported that its FiOS network would be available to over 800,000 households and small businesses in Florida by the end of 2007.[128] By comparison, FiOS was available to 400,000 households and small businesses in 2005.[129] Consumers in

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[124] "Verizon Tops 1 Million FiOS TV Customers," Verizon News Release, January 28, 2008, <http://newscenter.verizon.com/pressreleases/verizon/2008/verizon-tops-1-million-fios.html>, accessed on May 8, 2008.

[125] "Verizon FiOS TV Transforms Tampa Bay Region's Market as Company Commemorates Two-Year Anniversary of Head-to-Head Competition With Local Cable Providers," Verizon News Release, December 4, 2007, <http://newscenter.verizon.com/press-releases/verizon/2007/verizon-fios-tv-transforms.html>, accessed on April 25, 2008.

[126] Ibid.

[127] Verizon's Response to the FPSC's 2008 Local Competition data request, pp. 4-6.

[128] "Verizon FiOS TV Transforms Tampa Bay Region's Market as Company Commemorates Two-Year Anniversary of Head-to-Head Competition With Local Cable Providers," Verizon News Release, December 4, 2007, <http://newscenter.verizon.com/press-releases/verizon/2007/verizon-fios-tv-transforms.html>, accessed on April 25, 2008.

[129] Ibid.

Florida can currently subscribe to broadband services with download speeds ranging from 10 Mbps to 50 Mbps, and upload speeds ranging from 2 Mbps to 20 Mbps.[130] Verizon has already begun making further investments in its FiOS network in other states[131] to increase the download speeds by four times and upload speeds by eight times.[132]

In Texas, Verizon has begun to extend its existing FiOS service into an adjacent AT&T service territory and covers approximately 60,000 homes.[133] This is the first indication that Verizon is willing to overbuild in an area where AT&T also offers bundled services. By targeting this expansion to adjacent areas where Verizon already provides FiOS service, it can take advantage of existing infrastructure and regional advertizing. This could have implications for other adjacent territories of Verizon in other states, such as Florida.

AT&T has adopted a different strategy for upgrading its networks. Prior to the AT&T/BellSouth merger, BellSouth was deploying fiber-to-the-curb (FTTC). FTTC extends the fiber network to optical network units (ONU) located within a neighborhood. Each ONU typically serves 8-12 homes. The remaining loop from the ONU to the home is a traditional copper line, which may be as long as 500 feet, but averages 200 feet. By comparison, AT&T chose a fiber-to-the-node (FTTN) deployment in which it runs fiber optic cable to within 3,000 feet on average of a customer's home, and uses existing copper lines the remainder of the way. AT&T has made no comment on whether it will continue to deploy fiber closer to consumers though FTTC, or FTTN deployment strategy. In addition, AT&T has deployed FTTH in some new developments, but such deployments are limited to areas without existing infrastructure.

AT&T enhanced its fiber network with its proprietary "U-verse" brand of services. U-verse is comprised of a group of services provided over Internet Protocol (IP), including television service, Internet access, and voice telephone service.[134] Nationwide, AT&T has stated it has 379,000 U-verse TV subscribers as of the end of the first quarter of 2008.[135] For the same period, it has passed more than 9 million homes and plans on passing approximately 30 million homes by 2010.[136] These services were available in parts of Dade, Broward, and Palm Beach counties in July 2008. In those states where AT&T High Speed Internet U-verse is available, consumers can currently subscribe to broadband services with download speeds ranging from 1.5 Mbps to 10 Mbps, and upload speeds ranging from 1 Mbps to 1.5 Mbps.[137] AT&T indicates its

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[130] Ibid.
[131] The states where Verizon began initial deployment of G-PON are California, Maryland, Massachusetts, New Jersey, New York, Rhode Island, Pennsylvania, Virginia, and Texas.
[132] "Verizon Extends Industry Lead in Broadband and Video with G-PON," Verizon News Release, January 8, 2008, <http://newscenter.verizon.com/press-releases/verizon/2008/verizon-extends-industry-lead-1.html>, accessed on May 8, 2008.
[133] Matt Stump, "Verizon (FiOS) begins overbuilding AT&T (U-verse) in Texas," One TRAK, June 9, 2008, <http://www.onetrak.com/ShowArticle.aspx?ID=3487&AspxAutoDetectCookieSupport=1>, accessed on June 10, 2008.
[134] "AT&T U-verse," AT&T Media Kits, <http://www.att.com/gen/press-room?pid=5838>, accessed on May 1, 2008.
[135] Ibid.
[136] Ibid.
[137] "AT&T High Speed Internet U-verse Enabled," AT&T U-verse, <https://uverse1.att.com/un/launchAMSS.do>, accessed on April 28, 2008.

strategy to offer lower speeds at reduced prices has been well received by its consumers.[138] AT&T's 1.5 Mbps service for $20 per month is its most popular broadband service tier.[139]

b. Cable DOCSIS 3.0

In response to increasing broadband speeds offered by some telecommunications carriers, the cable industry has been developing technology that will increase the broadband speeds that it can offer. This new technology standard is referred to as DOCSIS 3.0 and stands for Data Over Cable Service Interface Specification (version 3.0). This standard makes use of a cable company's existing hybrid fiber-coaxial infrastructure, but uses a process to electronically combine multiple DOCSIS channels to boost connection speeds.[140]

Comcast, the largest cable operator with 24 million subscribers, was the first to deploy this technology in the Minneapolis and St. Paul markets in April 2008.[141] Customers can purchase this new broadband service using DOCSIS 3.0 to provide download speeds of 50 Mbps and upload speeds of 5 Mbps.[142] Comcast has stated that it hopes to reach about 20 percent of the homes along its network routes by the end of 2008.[143] Comcast expects to deliver speeds of up to 100 Mbps to its customers over the next two years, with the capability of delivering speeds of 160 Mbps or more in the future.[144] Other cable companies have indicated that they are experimenting with DOCSIS 3.0 technology and plan on deploying the technology in the coming years.[145]

c. Wireless Broadband

The rate of technological development for wireless devices and applications remains robust. The flexibility of wireless access appears to be a key demand driver as wireless broadband access becomes increasingly useful for many segments of the population. Whether it is 3G wireless for mobile professionals, Wi-Fi access for students, or fixed wireless and satellite for alternative broadband links to the home, the wireless broadband segment seems to be addressing new ways of accessing Internet applications and information. According to a report by the Pew Internet & American Life Project, approximately one-third of all Internet users have logged onto the Internet using a wireless connection.[146] This report also noted that 80 percent of wireless broadband users also have some additional form of broadband connection at home.[147]

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[138] Vishesh Kumar, "Is Faster Access to the Internet Needed?" *The Wall Street Journal*, April 10, 2008; p. B5.
[139] Ibid.
[140] "Comcast Unleashes New 50/5 Mbps Extreme High-Speed Internet Service Using DOCSIS 3.0 Technology in the Twin Cities," Comcast Press Release, April 3, 2008, <http://www.comcast.com/About/PressRelease/PressReleaseDetail.ashx?PRID=741>, accessed on April 29, 2008.
[141] Ibid.
[142] Ibid.
[143] Vishesh Kumar, "Cable Prepares an Answer to FiOS," *The Wall Street Journal*, February 14, 2008, p. B3.
[144] "Comcast Unleashes New 50/5 Mbps Extreme High-Speed Internet Service Using DOCSIS 3.0 Technology in the Twin Cities," Comcast Press Release, April 3, 2008, <http://www.comcast.com/About/PressRelease/PressReleaseDetail.ashx?PRID=741>, accessed on April 29, 2008.
[145] Vishesh Kumar, "Cable Prepares an Answer to FiOS," *The Wall Street Journal*, February 14, 2008, p. B3.
[146] John Horrigan, "34% of Internet Users Have Logged on with a Wireless Internet Connection Either at Home, at Work, or Someplace Else," Pew Internet & American Life Project, February 2007,

i. Third Generation (3G) Wireless

3G wireless services combine the functionality of broadband access with the widespread coverage of participating mobile phone networks. A 3G enabled mobile telephone or laptop can access the Internet at broadband speeds while customers travel within the broadband coverage area of their mobile provider. The technologies used to provide 3G wireless services have evolved into competing incompatible standards. A few phones have been introduced that incorporate both technologies in one device.[148]

Alltel, Sprint Nextel, and Verizon Wireless have been upgrading their networks to use the wireless broadband standard known as EVDO (Evolution Data Optimized) revision A. This standard provides average download speeds from 600 kbps to 1.4 Mbps and an average uplink speed from 250 to 800 kbps. Nationwide, EVDO revision A covers 82 percent of the U.S. population.[149] By comparison, AT&T is investing in Wideband CDMA (Code Division Multiple Access) with High Speed Data Packet Access technology.[150] AT&T has expanded its network to more than 160 markets, including most of the top 100 cities in the U.S. AT&T's network enables mobile broadband access at download speeds between 700 kbps and 1.7 Mbps and upload speeds between 500 kbps and 1.2 Mbps.[151] Nationwide, this technology covers 43 percent of the U.S. population.[152]

According to a study by CostQuest Inc., eight percent of road miles in Florida are unserved by 3G services.[153] By comparison, approximately 42 percent of all the road miles in the U.S. do not have access to 3G.[154] As it relates to geographic area, 22 percent of Florida does not have access to 3G wireless services.[155] Most of this unserved geographic area is comprised of national parks in South Florida.[156] Nationwide, approximately 23.2 million residents currently do not have access to 3G mobile broadband services at their primary residence.[157] The estimated investment needed to build out infrastructure to facilitate ubiquitous 3G deployment is approximately $22 billion.[158]

<http://www.pewinternet.org/pdfs/PIP_Wireless.Use.pdf>, accessed on April 15, 2008.

[147] Ibid.

[148] Sprint PCS International Phone IP-A790, Verizon SCH-a790 World Phone, and the CoolPAD 728 Smartphone.

[149] FCC, "Twelfth Report, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services," WT Docket No. 07-71, FCC 08-28, February 4, 2008, p. 8.

[150] "AT&T Reports 3G Wireless Download Speeds of up to 1.7 Mbps for LaptopConnect Customers – a 20+ Percent Increase," AT&T Press release, <http://www.att.com/gen/press-room?pid=4800&cdvn=news&newsarticleid=25785>, accessed on June 4, 2008.

[151] Ibid.

[152] FCC, "Twelfth Report, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services," WT Docket No. 07-71, FCC 08-28, February 4, 2008, p. 8.

[153] CostQuest Associates, Inc., "U.S. Ubiquitous Mobility Study," April 17, 2008, p.19, Figure 7.

[154] Ibid.

[155] Ibid.

[156] CostQuest Associates, Inc., "U.S. Ubiquitous Mobility Study State Map Book," March 2008, p. 14.

[157] CostQuest Associates, Inc., "U.S. Ubiquitous Mobility Study," April 17, 2008, p.4.

[158] Ibid.

ii. Fourth Generation (4G) Wireless

4G represents the next evolution of networks for wireless providers from 3G technologies. In general, a 4G network will be capable of providing voice, data, and streamed multimedia to consumers at higher data rates than for current 3G services. While there is no formal definition for what services are 4G, there are certain characteristics that most experts agree a 4G network would include. A 4G network will be a fully IP-based network capable of providing between 100 Mbps and 1 gigabit per second (Gbps) data speeds. Both Verizon Wireless and AT&T have selected Long Term Evolution (LTE) technology as their next-generation network architecture.[159] The deployment of this technology is in part a result of wireless spectrum that both AT&T and Verizon won during recent FCC spectrum actions.

iii. Wi-Fi

Wi-Fi Internet access has typically developed as a wireless extension of a wireline broadband connection. Broadband subscribers extend cable modem or DSL access throughout the home or office using Wi-Fi routers. The wireless connection is made using unlicensed wireless spectrum. Locations as varied as airports, universities, coffee shops, and city parks provide free or fee-based Internet access through Wi-Fi zones known as "hotspots." The number of Wi-Fi access points, or hotspots, continues to grow steadily. The total number of U.S. hotspots now exceeds 68,000, up 28,000 since the FPSC's last report.[160] In Florida, the number of Wi-Fi hotspots has grown from 2,657 to 4,353.[161]

In the FPSC's last report, a key trend noted in the Wi-Fi market was the increasing popularity of municipal wireless broadband networks. Since then, a number of high-profile projects have been scaled back, delayed, or canceled.[162] For example, Dade County recently abandoned plans to deploy a countywide wireless network in favor of creating a number of temporary Wi-Fi hotspots in public parks.[163] In general, smaller municipal Wi-Fi projects have been more likely to succeed than overly ambitious projects in major metropolitan areas.[164] In Florida, one of the most cited municipal success stories has been the Wi-Fi deployment by the city of St. Cloud. Broadband downloads are typically slower for municipal Wi-Fi projects in comparison with wireline broadband alternatives, but pricing is generally more affordable. For example, residents and visitors can access St. Cloud's Wi-Fi network at no charge.

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[159] Richard Koman, New Wireless Technology will use 700-Mhz Spectrum, *Mobile Tech Today*, April 7, 2008, <http://www.mobile-tech-today.com/story.xhtml?story_id=012000F3EJGO>, accessed on April 21, 2008.
[160] JiWire, Wi-Fi Hotspot Directory, <http://www.jiwire.com/hot-spot-directory-browse-by-state.htm?country_id=1&provider_id=0>, accessed on May 2, 2008.
[161] Ibid.
[162] David S. Elliot, "Muni Wireless Fizzles," *OhmyNews International Science & Technology*, February 10, 2008, <http://english.ohmynews.com/articleview/article_view.asp?article_class=4&no=381719&rel_no=1>, accessed on May 2, 2008.
[163] Matthew I. Punzur, "Dade Pulls the Plug on Wi-Fi Plan," *The Miami Herald*, January 26, 2008, P. 1A.
[164] National Telecommunications and Information Administration, U.S. Department of Commerce, "Networked Nation: Broadband in America 2007," January 2008, p. 21, <http://www.ntia.doc.gov/reports/2008/NetworkedNationBroadbandinAmerica2007.pdf>, accessed on May 2, 2008.

iv. WiMAX

WiMAX is a broadband technology that provides wireless data over a significantly larger area and at faster rates than Wi-Fi. While Wi-Fi uses unlicensed spectrum, WiMAX generally uses licensed spectrum. Initial WiMAX networks were essential to a fixed wireless network and did not offer true mobility. More recently, standards have evolved that add mobility to the features WiMAX services can provide. In the U.S., Clearwire and Sprint Nextel have the largest wireless spectrum relevant to WiMAX.

Clearwire Corporation (Clearwire) is currently providing wireless broadband Internet services in Florida using fixed WiMAX technology. Customers receive service via a wireless modem that plugs in to a computer and allows for 1.5 Mbps downloads and 256 kbps uploads.[165] The wireless modem is portable, allowing customers to have wireless Internet access throughout the home and throughout a metropolitan coverage area. Clearwire began operations in Jacksonville in August 2004,[166] and now provides service in 50 metropolitan areas throughout the U.S.[167] In addition to Jacksonville, Clearwire's wireless broadband service is available in Daytona Beach. In May 2007, Clearwire successfully completed its first mobile WiMAX field trials.[168] Clearwire has indicated that its mobile WiMAX network is capable of consistently delivering between 5 to 6 Mbps download speeds and 2 to 3 Mbps upload speeds.[169]

Sprint Nextel has selected Mobile WiMAX as its next generation network architecture and began to build-out its WiMAX network in 2006.[170] Sprint Nextel began providing its WiMAX service, called Xohm, in Chicago, Baltimore, and Washington D.C.[171] in January 2008.[172] Xohm will use Sprint Nextel's 2.5 gigahertz spectrum holdings, which cover 75 percent of the households in the top 100 U.S. markets.[173] Sprint Nextel advertises anticipated speeds of 2 to 4 Mbps for downloads and 1 to 3 Mbps for uploads on its WiMAX network.[174]

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[165] About Clearwire, <http://media.corporate-ir.net/media_files/irol/21/214419/MEDIAKIT/Clearwire_About_Us_updated_4_4_08.pdf>, accessed on May 2, 2008.

[166] "Intel, Clearwire to Accelerate Deployment of WiMax Networks Worldwide," Clearwire News Release, October 25, 2004, <http://newsroom.clearwire.com/phoenix.zhtml?c=214419&p=irol-newsArticle&ID=1039955&highlight=>, accessed on May 2, 2008.

[167] Clearwire, "Launched Markets," <http://media.corporate-ir.net/media_files/irol/21/214419/MEDIAKIT/Market_lists_updated_4_4_08.pdf>, accessed on May 2, 2008.

[168] "Clearwire Successfully Completes First Phase of Mobile WiMAX Field Trial," Clearwire News Release, May 21, 2007, <http://newsroom.clearwire.com/phoenix.zhtml?c=214419&p=irol-newsArticle&ID=1036441&highlight=>, accessed on May 2, 2008.

[169] Benjamin G. Wolff, CEO Clearwire Corp., "Webcast Sprint Nextel/Clearwire WiMax Call," Sprint Investor Relations, May 7, 2008, <http://investors.sprint.com/phoenix.zhtml?p=irol-eventDetails&c=127149&eventID=1844939>, accessed on May 12, 2008.

[170] Sprint, 4G Mobile Broadband Press Kits, August 8, 2006, <http://www2.sprint.com/mr/cda_pkDetail.do?id=1260>, accessed on May 2, 2008.

[171] Adama D. Brown, "Sprint Preparing Soft Launch for WiMax Service," Brighthand, December 7, 2007, <http://www.brighthand.com/default.asp?newsID=13545>, accessed on May 2, 2008.

[172] Brad Reed, "Sprint MiMAX Soft Launch Under Way," *The New York Times*, January 11, 2008, <http://www.nytimes.com/idg/IDG_002570DE00740E18002573CD00048CD3.html?ex=1357794000&en=7ab7519aaf547f0f&ei=5090&partner=rssuserland&emc=rss>, accessed on May 2, 2008.

[173] "Sprint Continues WiMAX Ecosystem Progress with New Device and Service Deals," Sprint News Release, April 1, 2008, <http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle_Print_newsroom

On May 7, 2008, Clearwire and Sprint Nextel announced that they have entered into an agreement to combine their WiMAX facilities and spectrum to form a new wireless communications company.[175] Other partners in the new company, which will retain the Clearwire name, include Intel, Google, Comcast, Time Warner Cable, and Bright House.[176] The new Clearwire anticipates that it will be able to deploy its network to cover between 120 and 140 million people in the U.S. by 2010.[177]

v. Satellite

For many consumers in rural areas, satellite services are the only means of obtaining broadband Internet service. According to the FCC, the broadband satellite industry represents less than 1 percent of the 100.9 million high-speed connections in the United States.[178] However, this market has seen a 77 percent increase in high-speed connections from June 2005 to June 2007.[179] As of June 2007, 79 percent of satellite broadband connections were used to serve residential customers.[180] While peak performance has improved, both cable modem service and DSL services generally provide faster speeds than satellite broadband services.[181] Furthermore, rates for satellite broadband services are significantly higher compared to either wireline alternative.[182]

Three companies provide the majority of residential service in the United States. These broadband satellite providers are HughesNet,[183] StarBand,[184] and WildBlue Communications (WildBlue).[185] In general, these services are capable of download speeds up to 2.5 Mbps and upload speeds up to 256 kbps. Currently, WildBlue and AT&T have an agreement in which AT&T resells WildBlue's service to its customers in rural areas where AT&T does not offer DSL service.[186] AT&T calls this service "AT&T Broadband via Satellite (provided by WildBlue)." By offering this service, AT&T is able to fulfill a merger commitment to offer

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&ID=1124418&highlight=>, accessed on May 2, 2008.

[174] Sprint, "Technology: The Benefits of WiMAX," <http://www.xohm.com/technology.html>, accessed on May 2, 2008.

[175] "Sprint and Clearwire to Combine WiMAX Businesses, Creating a New Mobile Broadband Company," Sprint News Release, May 7, 2008, <http://newsreleases.sprint.com/phoenix.zhtml?c=127149&p=irol-newsArticle_newsroom&ID=1141088>, accessed on May 12, 2008.

[176] Ibid.

[177] Ibid.

[178] FCC, "High-Speed Services for Internet Access: Status as of June 30, 2007," March 2008, Table 1, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280906A1.pdf>, accessed on May 1, 2008.

[179] Ibid.

[180] Ibid, Tables 1 and 3.

[181] Ibid, Table 5.

[182] "Networked Nation: Broadband in America 2007," National Telecommunications and Information Administration, U.S. Department of Commerce, January 2008, Table 5, p. 23, <http://www.ntia.doc.gov/reports/2008/NetworkedNationBroadbandinAmerica2007.pdf>, accessed on May 2, 2008.

[183] HughesNet, HughesNet Homepage, <http://www.hughesnet.com>, accessed on May 2, 2008.

[184] StarBand, "New StarBand Nova Series," <http://www.starband.com/services/>, accessed on May 2, 2008.

[185] WildBlue, "WildBlue Satellite Speed Internet,"<http://www.wildblue.com/aboutWildblue/index.jsp>, accessed on May 2, 2008.

[186] "AT&T Yahoo! ® Broadband via Satellite Provided By WildBlue Expands across AT&T's 22-State Wireline Territory," WildBlue Press Release, May 9, 2007, <http://www.wildblue.com/company/doPressReleaseDetailsAction.do?pressReleaseID=44>, accessed on May 2, 2008.

broadband Internet access services to 100 percent of homes in the AT&T/BellSouth serving area by December 31, 2007.[187]

d. Broadband over Power Lines

Broadband over Power Lines (BPL) is a last mile technology that takes advantage of medium and low voltage line capacities to deliver broadband Internet connectivity over electric power lines. BPL networks can extend very far, but latency, or delay, can affect applications like voice and interactive gaming. Furthermore, BPL technology has yet to be standardized. Without such standards, manufacturers and providers using such equipment cannot take advantages of interoperability and economies of scale that could help BPL deployment.

While several utilities that offer electric service in Florida were involved in BPL trials or limited offerings, the technology has not been commercially deployed in Florida. Nationwide, approximately 35 areas have BPL networks.[188] The United Power Line Council notes that only nine of these networks are commercial deployments.[189] The remaining BPL networks are either pilot or trial deployments. According to the United Power Line Council, most of these networks provide upwards of 2 Mbps symmetrical (i.e., same upload and download) speeds to the consumer. Data from the FCC indicates there were, at most, 5,420 consumers that subscribed to BPL as of June 2007.[190] These broadband connections represent only a 4 percent increase in BPL subscribers from a year ago[191] and less than one percent of all broadband connections. Recently, the owners of the world's largest BPL project, in Dallas, Texas, announced that they would be discontinuing broadband service to business and residential consumers.[192] Instead, this BPL network will be used exclusively to detect electric distribution network issues.

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[187] FCC 06-189, WC Docket No. 06-74, AT&T Inc. and BellSouth Corporation Application for Transfer of Control, Memorandum Opinion and Order, released March 26, 2007, Appendix F, p. 148, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-06-189A1.pdf>, accessed on May 2, 2008.

[188] "Status of Broadband Over Power Line 2007," United Power Line Council, White Papers, BPL Update, <http://www.uplc.org/fileshare/files/38/Research_Information/White_Papers/2007BPLUpdate.pdf>, accessed on May 2, 2008.

[189] FCC 08-88, GN Docket No. 07-45, Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, Fifth Report, released June 12, 2008, ¶24.

[190] FCC, "High-Speed Services for Internet Access: Status as of June 30, 2007," March 2008, Table 9, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280906A1.pdf>, accessed on May 1, 2008.

[191] FCC, "High-Speed Services for Internet Access: Status as of June 30, 2006," January 2007, Table 9, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280906A1.pdf>, accessed on May 1, 2008.

[192] "World's Biggest BPL Project Converted to Utility Use Only," TelecomWeb, May 2, 2008, <http://www.telecomweb.com/tnd/260493.html>, accessed on May 5, 2008.

CHAPTER V. DISCUSSION OF CHAPTER 364, FLORIDA STATUTES, 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.

On June 19, 2007, Governor Charlie Crist signed into law SB 1818, which amended Section 364.386, F.S., established a statutory data request response date of April 15, 2008, and reduced the burden of certain reporting requirements. A notice of the following material changes was included in this year's data requests:

- Data request due date
- Data filing options
- Potential penalties for non-compliance
- Filing requirements
- Response checklist
- Report completion date
- Confidentiality
- Forms availability (on FPSC Web site)

The FPSC sent data requests to all CLECs and ILECs certificated as of February 19, 2008, designed to address these and other issues. The CLEC data request consisted of several parts. The first part was a notice of statutory changes relative to reporting requirements and general reporting instructions. The second part was a questionnaire designed to obtain information including types of service offered, effects of approved federal forbearance petitions, capital investments, barriers to entry, information on intermodal competition, and other comments. This chapter addresses the statutory questions and summarizes the feedback provided by CLECs and ILECs in response to the qualitative questions.

The Commission recognizes that, for many consumers, wireless and VoIP service options are substitutes for traditional wireline services. However, only wireline telecommunications providers are under the regulatory authority of the Commission. The Commission is limited in its ability to gather certain types of information from providers of nonjurisdictional services. This year, a number of CLECs providing VoIP furnished the Commission with information and line counts for their VoIP subscribers. Even with this additional information, the ability to present a complete analysis of the required statutory issues is somewhat limited. However, through sources available in the public domain, the FPSC has been able to reach what it believes are reasonable conclusions regarding wireless and VoIP service providers and their impact on the analysis of these statutory issues.

B. Discussion of Six 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.[193] 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. Section 364.025(1), F.S., requires ILECs to furnish basic local exchange telecommunications service within a reasonable time to any person requesting such service within a company's service territory until January 1, 2009. Section 364.025(4), F.S., states that, prior to January 1, 2009, "the Legislature shall establish a permanent universal service mechanism upon the effective date of which any interim recovery mechanism for universal service objectives or carrier-of-last-resort obligations imposed on competitive local exchange telecommunications companies shall terminate." As of year-end 2007, 94 percent of Florida's 8.5 million households subscribed to wireline local telephone service, as seen in Figure 5-1.[194] Income remains a significant factor in predicting telephone subscribership as seen in Figure 5-2.[195] Only 88 percent of households with total incomes of less than $10,000 have telephone service, compared to 97 percent of households with incomes over $40,000.

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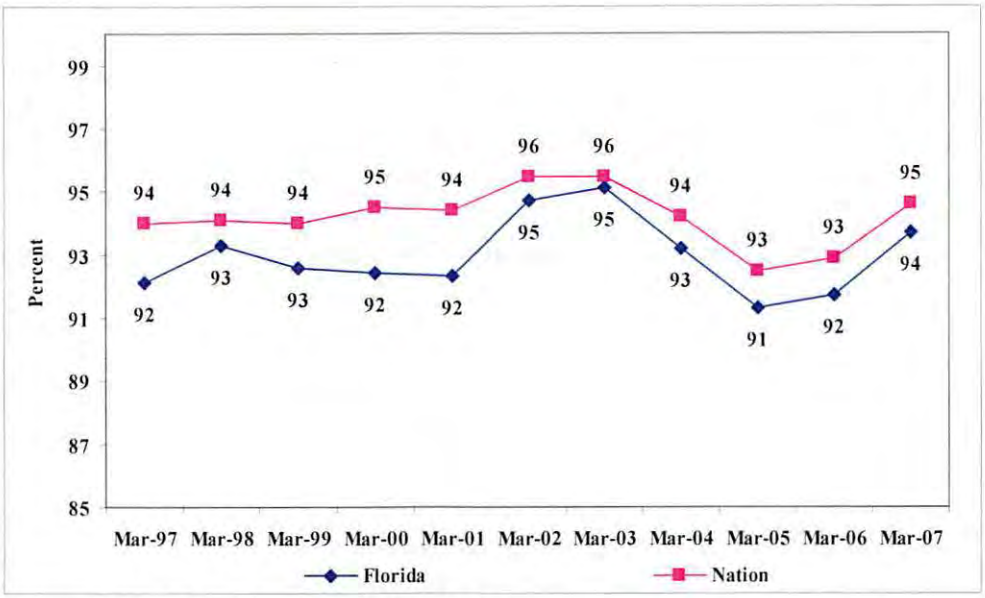
[193] The list of supported services eligible for federal support currently includes voice grade access to the public switched network, local usage, dual tone multi-frequency signaling, single-party service, access to emergency services, access to operator services, access to interexchange services, access to directory assistance, and toll-limitation for qualifying low-income consumers. 47 C.F.R. 54.101.

[194] FCC, "Telephone Penetration by Income by State (Data through March 2007)," March 2008, Table 4, <http://www.fcc.gov/wcb/ iatd/comp.html>, accessed on April 16, 2007.

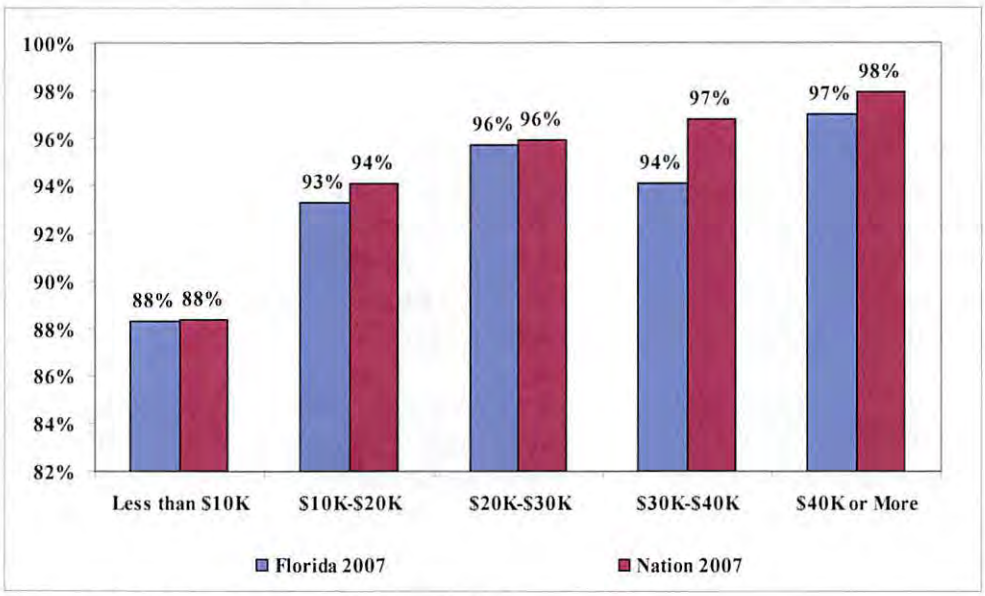
[195] Ibid.

Figure 5-1. Telephone Service Penetration



Source: FCC, "Telephone Penetration by Income by State"

Figure 5-2. 2007 Telephone Penetration by Income: Florida v. Nation



Source: FCC, "Telephone Penetration by Income by State"

Conclusion: FCC 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 to 94 percent in 2007. It is unclear if this information represents normal variations due to the economic cycle, or whether it is a reflection that the survey instrument has become more adept at accounting for the substitution of new technologies for wireline telephone

service. It is premature to assume that recently observed fluctuations in measured telephone penetration rates are cause for alarm. Furthermore, to the extent competition had an effect on an ILEC's ability to provide universal service, the ILEC has the option of petitioning this Commission for a change in the interim intrastate universal service mechanism.[196] No carrier has yet filed such a petition. Wireless, prepaid telephone services, and VoIP services are providing viable consumer alternatives. The FPSC concludes that local exchange competition has had little if any impact on the continued availability of universal service.

2. The Ability of Competitive Providers to Make Functionally Equivalent Service Available

The size of a particular market, as well as subscriber density, are key factors affecting a carrier's entry decision. As a result, there are generally more competitive carriers offering service in urban areas than in rural areas. These differences are further influenced by the rules imposed under the 1996 Act. For example, the availability of UNEs in a given area may also affect market entry. Section 251(c)(3) of the 1996 Act, as implemented by the FCC, requires that ILECs provide UNEs to requesting carriers at prices based on forward-looking costs. Similarly, Section 251(c)(4) requires that ILECs "offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers." Section 251(f)(1), known as the rural exemption, provides that the requirements of Sections 251(c)(1) through 251(c)(6) do not apply to a rural telephone company until the rural company receives a bona fide request for interconnection, services, or network elements, and the state commission determines that the request "is not unduly economically burdensome, is technically feasible, and is consistent with Section 254 (other than subsections (b)(7) and (c)(1)(D) thereof)."

While AT&T, Verizon, and Embarq are currently required to adhere to the various provisions of Section 251(c), the remaining ILECs in Florida are still exempt because no carrier has petitioned the FPSC to lift a rural ILEC's exemption. As a result, since unbundled network elements and resale of the ILEC's services at a wholesale discount are presently unavailable in Florida rural ILEC service areas, wireline CLECs considering entry in a rural area will face higher costs as compared to entry in a nonrural area.

Further distinctions exist between nonrural carriers. Specifically, the unbundled loop rates in Florida for AT&T, Verizon, and Embarq were geographically deaveraged, as required by FCC rules. The deaveraging reflects differences in the cost associated with providing loops. Thus, the price for a UNE loop in AT&T's UNE zone 1 (e.g., most Miami exchanges) is less than a UNE loop in AT&T's UNE zone 3 (e.g., Homestead exchange). Consequently, carriers entering into urban areas will face lower costs when compared to entering into more rural areas.

To further evaluate the ability of competitive 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 be impeding the growth

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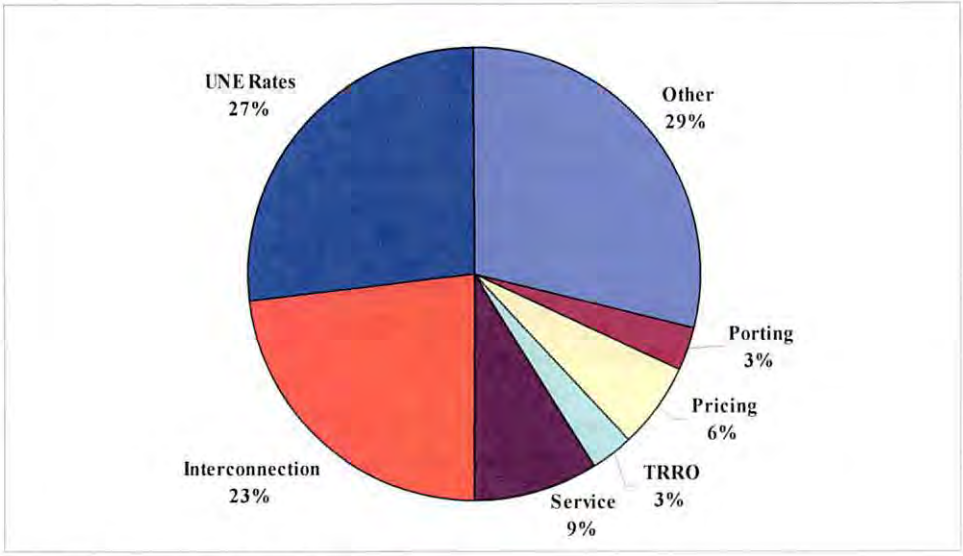
[196] Section 364.025(3), F. S.

of local competition in the state. A total of 37 CLECs reported barriers to competition; the primary issues identified by the respondents are shown in Figure 5-3.

Figure 5-3. Barriers to Competition Perceived by CLECs



Source: Responses to 2008 FPSC data requests.

UNE Rates. High pricing was the most frequently reported barrier to entry. CLECs alleged unjust fees and UNE rates that made competing with ILECs economically infeasible.

Interconnection Agreements. The second most commonly reported type of barrier to entry relates to interconnection agreements. CLEC allegations include ILEC refusal to negotiate and refusal by ILECs to interconnect with CLEC networks on fair, reasonable, and/or nondiscriminatory terms.

Service. Several CLECs listed service problems as barriers to entry. This category includes allegations of poor service from ILECs to the CLECs and CLEC customers. Issues reported include ILEC delays in processing orders and resolving service issues and ILEC personnel being "strategically incompetent."

Pricing. Several CLECs reported that ILECs were offering promotional rates to their retail customers that were below wholesale rates available to CLECs.

Triennial Review Remand Order (TRRO). Some CLECs identified barriers directly associated with the TRRO. 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.

Porting. Another barrier noted by CLECs involved issues with number porting. Complaints included allegations of ILECs causing delays, waiting until the end of the three-day

porting window to inform CLECs of problems such as insufficient information, and "accidents" causing numbers not to be ported or to be ported incorrectly.

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

A recent report from Comptel[197] discusses other competitive barriers perceived by CLECs. The report states that economies of scale result in insurmountable barriers to building underlying communications infrastructure, leaving new entrants at the mercy of the wholesalers for the procurement of basic network elements. Operational risks are cited as the second major barrier. A new entrant would have to devote considerable resources to other activities associated with the construction of the actual facilities such as access to rights-of-way or gaining permission to enter the buildings where customers reside.[198]

The Commission asked the CLECs to report services they offer. The 136 CLECs providing local service reported offering the following:

- Bundles (92 CLECs)
- VoIP (38 CLECs)
- Prepaid only (24 CLECs)
- Broadband Internet access (15 CLECs)
- Fiber to end users (6 CLECs)
- Video Service (3 CLECs)
- Services other than local voice (81 CLECs)

The Commission also asked the CLECs to report how much money they had invested in their networks to serve Florida local service customers. As of May 20, 2008, 111 CLECs responded to this question. Of the responses provided:

- 14 CLECs reported investing nothing.
- 79 CLECs reported investing between $1-$249,999.

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[197] Comptel is a competitive carrier industry association.
[198] "The Importance of Wholesale Competition to Market Performance," Comptel Press Release, May 28, 2008, <http://www.comptel.org/files/whitepapers/wholesale-comp_mrkt-perf_may28_2008.pdf>, accessed on June 5, 2008.

- 7 CLECs reported investing between $250,000-$999,999.
- 6 CLECs reported investing between $1million-$10 million.
- 5 CLECs reported investing more than $10 million.

Pursuant to Section 364.161(4), F.S., the Commission resolves CLEC complaints filed against ILECs. The number of complaints has declined over the past five years, from 81 (filed July 1, 2001 to June 30, 2002) to 19 (filed June 1, 2005 to May 31, 2006) to 9 (filed June 1, 2006 to December 31, 2007). Of those 9, 1 was resolved in 2006, 7 were resolved in 2007, 1 was resolved in 2008, and 1 remains pending. No complaints from this reporting period have taken more than one year to resolve. Most complaints focused on number portability and service-related issues. The list of complaints is found in Appendix E.

The Commission received 280 negotiated agreements and 6 requests for arbitration between June 1, 2006 and December 31, 2007. Since June 1996, the Commission has reviewed and approved 4,205 negotiated interconnection agreements. The general ability of competitive providers to enter into negotiated agreements with incumbent carriers is reflected by these statistics.

As part of the FPSC's data collection efforts, ILECs were asked to provide any comments, suggestions, information, reports, or studies that the ILECs believe to be relevant to topics covered in this report, including intermodal competition. None of the ILECs responded to this question, but staff research discovered some industry views about intermodal competition. A presentation by William Taylor representing AT&T addressed these issues stating the following:[199]

- Dual regulation (wholesale and retail) is unnecessary and burdensome.
- Intermodal competition (i.e. VoIP, Wireless) makes the previous point especially true for wholesale regulation as intermodal competition is in some ways more of a competitive threat than CLECs.
- Wireless has been the biggest source of competition in recent years, and VoIP is expected to be the biggest source of competition in coming years.

In support of a rulemaking petition filed at the FPSC, AT&T provided a research paper prepared by the National Economic Research Association (NERA) which focuses on competitive issues faced by ILECs:

- Intermodal alternatives (particularly cable and wireless) are believed by some to have contributed to a decline of switched access lines of both incumbent and competitive wireline carriers.

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[199] Taylor, William E, "Intermodal Competition and Telecommunications Deregulation in Florida," NERA Economic Consulting, PowerPoint presented at the 34th Annual Public Utility Research Center (PURC) Conference, Gainesville, Florida, February 16, 2007.

- Wireline subscribers may switch from wireline service to another form of voice-based communications service with little incremental cost.

- Downward pressure on prices due to intermodal competition regulates prices for ILEC customers.[200]

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. However, these intermodal competitors are providing viable 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 insurmountable obstacles relating to interconnection issues. Therefore, the Commission concludes that competitors are able to provide functionally equivalent service to both residential and business customers.

3. The Ability of Customers to Obtain Functionally Equivalent Services at Comparable Rates, Terms, and Conditions

In an environment of emerging intermodal competition for voice service, analysis of this statutory issue is complex. Customers may obtain functionally equivalent services via wireline telephony, wireless telephony, VoIP, or cable telephony. The primary focus of this analysis is the provision of wireline telecommunications by ILECs and CLECs, the companies subject to Commission jurisdiction.

As of December 31, 2007, 136 CLECs were providing local telecommunications service in Florida in some capacity. 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 CLEC wholesaler's services, by using its own facilities, via UNEs leased from an ILEC, or through a combination of two or more methods.

As of December 31, 2007, of the 277 exchanges in Florida, 12 exchanges have no CLECs offering service, compared to one exchange without a CLEC offering service as of June 2006. Table 5-1 lists selected exchanges, the incumbent carrier serving that exchange, the total number of lines in that exchange, and the total number of CLECs offering service in that exchange for June 2006 and December 2007. These exchanges were arbitrarily selected to reflect a range based on the number of access lines. The table shows that CLECs are more likely to target areas with large concentrations of customers.

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[200] Harold Ware, "Can Competition Regulate Rates for Basic Services?" NERA Economic Consulting, January 4, 2008.

Table 5-1. CLEC Providers by Florida Exchange

Exchange	ILEC	Total Number of Resale and Local Platform Lines		Number of CLECs Offering Services	
		2006	2007	2006	2007
Jasper	Rural ILEC	3,388	30	2	5
Callahan	Rural ILEC	6,707	6	4	2
Quincy	Rural ILEC	12,232	271	5	2
Baker	Embarq	2,972	45	13	7
Crawfordville	Embarq	8,239	130	16	11
Crestview	Embarq	16,888	544	29	20
Leesburg	Embarq	34,178	1,010	46	23
Ocala	Embarq	98,220	3,130	50	31
Tallahassee	Embarq	183,291	4,104	58	35
Myakka	Verizon	3,049	7	8	7
Mulberry	Verizon	6,289	64	27	16
Bartow	Verizon	15,043	270	35	18
Zephyrhills	Verizon	26,911	298	36	18
Lakeland	Verizon	106,751	2,032	51	29
St. Petersburg	Verizon	226,494	6,435	52	34
Tampa	Verizon	557,992	23,597	60	44
Jay	AT&T	2,829	50	20	17
Chipley	AT&T	7,050	194	37	23
Gulf Breeze	AT&T	15,472	513	43	25
Titusville	AT&T	32,087	824	64	40
Gainesville	AT&T	100,587	3,904	76	47
Orlando	AT&T	346,507	16,312	105	69
Miami	AT&T	961,179	64,645	110	72

Source: Responses to FPSC Data Request

Customers must also be able to obtain functionally equivalent services at rates comparable to that of the ILEC in order for meaningful competition to occur. Table 5-2 shows that customers appear to have access to services at a variety of rates as competitors have developed pricing strategies to gain customers. Pricing strategies may include overall discounts and/or matching an ILEC's price. Other carriers have adopted a strategy of bundling basic local service with discounted toll service or vertical features (call waiting, caller ID, 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-$9.30	$17.09-$25.12	AT&T	$10.11-$13.58	$25.00-$31.00
American Fiber	$10.75	$29.25	AT&T	$10.11-$13.58	$25.00-$31.00
	$12.00	$30.00	Verizon	$16.09-$16.09	$31.69-$32.79
	$11.50	$25.25	Embarq	$13.70-$16.85	$23.45-$30.75
Knology	$11.75	$24.50-$29.50	AT&T	$10.11-$13.58	$25.00-$31.00
	$12.50	$28.75	Verizon	$16.09-$16.09	$31.69-$32.79
Orlando Telephone	$11.50	$25.00	Windstream Florida	$9.38-$11.35	$23.46-$28.37
Cleartel	$24.95-$29.95		AT&T	$10.11-$13.58	$25.00-$31.00
	$24.95-$29.95		Verizon	$16.09-$16.09	$31.69-$32.79
*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.

The Commission asked the ILECs and CLECs for information on their bundled service offerings, including whether they offered bundles, what percentage of customers were able to purchase bundles, what percentage of customers actually purchased bundled services (take rate), and if they offered prepaid service. Out of the 370 CLECs and 10 ILECs that were sent data requests, 89 CLECs and 4 ILECs reported offering bundled service. Below is a summary of their responses:

- Residential take rates for bundled offerings are 26 percent (ITS), 14 percent (NEFCOM), 23 percent (FairPoint), and 43 percent (Embarq).
- Business take rates are 0 percent (ITS), 3 percent (NEFCOM), 0 percent (FairPoint), and 36 percent (Embarq).
- Of the CLECs, 69 reported offering residential bundles, and 57 CLECs reported offering business bundles.

Prepaid telephone service continues to be a pricing strategy offered by CLECs to consumers with poor credit histories or to those 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 access to long distance, 900 numbers, and directory assistance calls are blocked. CLEC price lists indicate that prices for prepaid service range from $9.19 to $59.95 per month for residential customers, and from $21.93 to $89.95 per month for business customers. Telephone companies providing only prepaid telephone services account for 24 of the 136 companies providing local service in Florida and serve approximately 2 percent of CLEC residential access lines.

Wireless and VoIP communications services are alternatives to wireline telecommunications services that are growing in popularity. The appeal of these alternatives is based on price as well as convenience and the availability of unique features.[201] Although obtaining detailed information regarding the penetration levels of these services in Florida is difficult, it appears that a growing number of Florida households have substituted wireless service or VoIP service for wireline service. Florida's one million plus college students and one million plus seasonal residents may also contribute to Florida's continued decline in wireline subscribership. This decrease occurs because college students and seasonal residents often fall into demographics with higher rates of wireless substitution.[202] Increasing popularity of wireless and VoIP service may contribute to the fact that total residential access lines for Florida ILECs have steadily declined since 2001 despite the ongoing increase in the number of Florida households.[203]

The FCC reports that the annual average percentage of Florida households with a telephone increased in 2006 and 2007 after decreasing in 2004 and 2005. Data for 2006 shows an increase from 91.8 percent to 92.7 percent for 2006, and an increase to 93.6 percent in 2007.[204] By comparison, wireless-only households have grown to about 15.8 percent of total households nationwide.[205] It is likely Florida is also experiencing the effects of wireless substitution. In fact, given that a significant portion of Florida residents are transient in nature, either seasonal visitors with second homes or college students, the percentage of Florida households with wireless-only service may be higher than the national estimates.

Conclusion: Residential consumers in Florida are finding communication alternatives to wireline services offered by ILECs. Alternatives are being provided by CLECs, VoIP providers,

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[201] FCC, "Voice over Internet Protocol," March 28, 2008, <http://www.fcc.gov/voip/>, accessed on April 28, 2008.

[202] Department of Education, "The Fact Book, Report for the Florida Community College System," [Compiling the Fact Book Begins in the Fall with Completion Being the Early Part of the Following Year,] 2008, p. 2, <http://www.fldoe.org/arm/cctcmis/pubs/factbook/fb2007/fb2007.pdf>, accessed on April 21, 2008.
"Florida (FL): University and College Education System, Top Five Florida College and Universities by Student Enrolment Size," Education Portal, <http://education-portal.com/articles/Florida_(FL):_University_and_College_Education_System.html>, accessed on April 7, 2008.
Nova Southeastern University et. al, "Vulnerable and Hard-to-Reach Population Fact Sheet: Seasonal Residents," updated October 2006, < http://www.nova.edu/allhazards/forms/seasonal_res.pdf>, accessed on April 28, 2008.

[203] FCC, "Local Telephone Competition: Status as of December 31, 2006 & June 31, 2007," <http://www.fcc.gov/wcb/iatd/comp.html>, accessed on April 16, 2007.

[204] FCC, "Telephone Subscribership in the US (Data though July 2006)," January 2007, Table 3, and FCC, "Telephone Subscribership in the US (Data though November 2007)," March 2008, Table 3 <http://www.fcc.gov/wcb/iatd/comp.html>, accessed on April 16, 2008.

[205] Stephen J. Blumberg and Julian V. Luke, "Wireless Substitution: Early Release of Estimates for the National Health Interview Survey, June through December 2007," CDC, National Center for Health Statistics, December 2007, p. 1, <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless200805.pdf>, accessed on June 2, 2008.

and wireless providers. By the end of 2007, CLECs provided 265,984 residential access lines. Of 277 exchanges in Florida, 256 had at least one CLEC providing residential service as of December 2007. There are an estimated 1 million residential customers subscribing to VoIP-based services in Florida. Finally, an estimated 1.2 million households rely on wireless service as a substitute for wireline services.[206] In comparison, wireline ILECs provide approximately 5.4 million residential access lines. Recognizing an element of imprecision in the estimation of Florida cable voice and wireless subscribership, the Commission concludes that many Floridians are obtaining alternative services at rates, terms, and conditions acceptable to consumers.

4. The Impact of Price Regulation on the Maintenance of Affordable and Reliable Services

Section 364.051, F.S., provides that a price cap 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 non-basic service category shall 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 following ILECs filed notices of rate changes for basic and non-basic exchange services between May 31, 2006 and December 31, 2007, pursuant to Section 364.051, F.S.:

- Verizon increased basic local rates by 2.1575 percent effective November 1, 2007.
- FairPoint Communications increased rates for all non-optional basic services by 3 percent effective November 5, 2006, and 1.75 percent effective November 5, 2007.
- ITS increased basic local service rates by 2.3 percent effective November 1, 2007.

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

5. Definition of Basic Local Telecommunications Services

For ILECs, Section 364.02(1), F.S., defines basic local service as follows:

> "Basic local telecommunication service" means voice-grade, flat-rate residential and flat-rate single line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone 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

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[206] The estimated wireless-only households were calculated by multiplying the CDC's percent of wireless only households in the south region (17.1 percent) by the estimated number of Florida households in 2006 from the University of Florida (7,291,013); Cathy Keen "Florida households grow over last six years despite hurricanes," University of Florida News, March 20, 2008, <http://news.ufl.edu/2007/03/20/households/>, accessed on July 9, 2008.

exchange company, the term shall include any extended area service routes, and extended calling service in existence or ordered by the Commission on or before July 1, 1995.

According to Section 364.337(2), F.S., the basic local telecommunications service provided by a CLEC 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."

With regard to wireless and VoIP services, the FCC has required providers of these services that interconnect to the public switched telecommunications network to provide E911 and 911 services. The FCC has a pending proceeding to consider additional regulatory requirements for VoIP providers. 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 (wireless) providers are expressly exempted from the statutory definition of a telecommunications company, and VoIP is expressly excluded from the statutory definition of service.

Historically, both state and federal law has treated voice telecommunications service, in particular wireline telecommunications, as an essential service. Public policy evolved to ensure that voice telecommunications is available to the general population on a nondiscriminatory basis and at affordable rates. Federal and state law was amended in the mid 1990s to allow competition for local wireline telecommunications. As wireless and VoIP telephony became available, state and federal law accommodated the evolution of wireless and VoIP technologies by limiting regulatory oversight to social objectives such as emergency communications and cooperation with law enforcement. Regardless of the type of technologies used, voice communications is no less an essential element in today's environment than it was in 1934 when Congress first recognized the societal benefit of ubiquitous availability of voice communications service with the enactment of the Communications Act of 1934.

As multiple voice communications technologies have become commonplace, consumer assistance has become disjointed. Wireline telecommunications customers may still contact the FPSC for assistance with any issue pertaining to their telecommunications service or related inquiries and the Commission will assist them to resolve the problem. However, Florida Statutes do not establish a governmental entity from which VoIP customers may request assistance to resolve billing or service related issues though cable video subscribers may seek assistance from the Department of Agriculture and Consumer Services (DACS). DACS processes consumer complaints that are not statutorily designated as the responsibility of some other state agency. Thus, DACS would process wireless complaints as well as cable VoIP complaints. Wireless consumers may also lodge complaints with the FCC; however, the FCC is not known for its expedience in responding to consumer complaints. Wireless and VoIP consumers may also file billing and service related complaints with the Attorney General that relate to unfair trade practices. A centralized customer assistance body for all local voice communications would reduce customer confusion.

Conclusion: The Legislature may wish to investigate whether it is appropriate to establish a single point of contact for consumer assistance with voice communications services regardless of the technology used to provide service.

6. Any Other Information and Recommendations that May Be in the Public Interest.

The telecommunications environment, both nationally and in Florida, is characterized by decreasing regulation. A group of Florida ILECs has recently filed a petition with the FPSC seeking rulemaking, which would modify, eliminate, or waive many FPSC rules the petitioners view as unnecessary in a competitive environment. The rules, which are the subject of the petition, fall broadly under the categories of records and reporting requirements, quality of service requirements, and rate-of-return regulation requirements. The petition does not seek to remove FPSC jurisdiction over consumer complaints. It is not surprising, given the evolving telecommunications market, that wireline carriers would seek this type of regulatory change. The Commission has yet to rule on the petition but has agreed to proceed with rulemaking in order to address the petition.

Conclusion: There are no recommendations at this time.

CHAPTER VI. STATE ACTIVITIES

A. CARRIER OF LAST RESORT (COLR) – MULTITENANT ENVIRONMENT

The COLR obligation is based on the traditional policy directive of universal telephone service availability to all consumers. COLR obligations require the ILECs to provide basic local telecommunications services within a reasonable time to any person requesting such service within the company's service territory until January 1, 2009. In 2006, the Legislature amended Section 364.025, F.S., Universal Service, to automatically allow an ILEC, otherwise obligated to serve as a COLR, to be relieved of its obligation to provide basic local telecommunications service to any customers in a multitenant business or residential property (including, but not limited to, apartments, condominiums, subdivisions, office buildings, or office parks) under certain conditions. An ILEC is no longer obligated as a COLR for multitenant business or residential properties when the owner or developer:

- Permits only one communications service provider to install its communications service-related facilities or equipment during the construction phase of the project.
- Accepts or agrees to accept incentives or rewards from a communications service provider that are contingent upon the provision of any or all communications services by one or more communications service providers to the exclusion of the ILEC.
- Collects from the occupants or residents of the property charges for the provision of any communications service, provided by a communications service provider other than the ILEC, to the occupants or residents in any manner, including, but not limited to, collection through rent, fees, or dues.
- Enters into an agreement with a communications service provider that grants incentives or rewards to such owner or developer contingent upon restriction or limitation of the ILEC's access to the property.

To date, ILECs have filed more than 88 notices with the Commission claiming automatic waivers. The estimated number of households associated with these automatic waiver notices is in excess of 32,500.

In amending Section 364.025, F.S., the Legislature also realized that there may be other facts and circumstances wherein ILECs could be relieved of their COLR obligations. An ILEC that is not automatically relieved of its COLR obligation by any of the criteria above may seek a waiver for good cause shown, based on the facts and circumstances of provision of service to the multitenant business or residential property.

Five petitions have been filed by ILECs seeking waiver of COLR obligations pursuant to Section 364.025(6)(d), F.S. The pertinent information and the Commission's decision (where applicable) are:

- **Embarq - Treviso Bay in Collier County**

The Commission denied Embarq's petition, finding that the company had not presented sufficient evidence to justify the relief.[207] In a related docket requesting further clarification, the Commission declared that Embarq can require a deposit from the developer, pursuant to Rule 25-4.094, Florida Administrative Code (F.A.C.), as a condition to serving Treviso Bay.[208] As a result, both the developer and Embarq will share the economic burden of Embarq's infrastructure costs should too few residents subscribe to Embarq's telephone service.

- **AT&T - Subdivisions of Nocatee development in Duval and St. John's County**

The Commission approved AT&T's petition based on several factors.[209] The Commission found that residents will have access to an alternative telephone service provider. AT&T demonstrated that the anticipated take rate of its telephone service would most likely result in a situation in which the company would not be able to recover its infrastructure costs in a five-year period, which the Commission determined to be a reasonable expectation. In addition, the Commission found AT&T would be precluded by easement restrictions from selling video and data services over its network.

- **AT&T - Villages of Avalon, Phase II, in Hernando County**

The Commission found that residents will have access to an alternative telephone service provider. AT&T demonstrated that the anticipated take rate of its telephone service would most likely result in an uneconomic situation where AT&T would not be able to recover its infrastructure costs in a five-year period, which the Commission determined to be a reasonable expectation. The Commission also found the company would be precluded by easement restrictions from selling video and data services over its network.[210] Based on its findings, the Commission approved the petition relieving AT&T of its COLR obligation.

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[207] FPSC Order No. PSC-07-0311-FOF-TL, Docket No. 060763-TL, Petition for waiver of carrier-of-last-resort obligations for multitenant property in Collier County known as *Treviso Bay*, by Embarq Florida, Inc., issued April 12, 2007.

[208] FPSC Order No. PSC-08-0081-DS, Docket No. 070649-TL, Petition for declaratory statement regarding implementation of Order PSC-07-0311-FOF-TL, Rule 25-4.094, F.A.C., and general exchange tariff Section A5, G by Embarq Florida, Inc., issued February 11, 2008.

[209] FPSC Order No. PSC-07-0862-FOF-TL, Docket No. 060822-TL, Petition for relief from carrier-of-last-resort (COLR) obligations pursuant to F.S. 364.025(6)(d) for two private subdivisions in Nocatee development, by BellSouth Telecommunications, Inc., issued October 26, 2008.

[210] FPSC Order No. PSC-07-1008-PAA-TL, Docket No. 070126-TL, Petition for relief from carrier-of-last-resort (COLR) obligations pursuant to Section 364.025(6)(d), F.S., for Villages of Avalon, Phase II, in Hernando County, by BellSouth Telecommunications, Inc. d/b/a AT&T Florida., issued December 19, 2007.

- **AT&T - Cabana South Beach Apartments, Phase II, in Alachua County**

The Commission approved AT&T's petition.[211] AT&T provided sufficient evidence showing the take rate for its service would be very low, effectively preventing it from recovering its infrastructure investment in a five-year period, which the Commission determined to be a reasonable expectation. Additionally, construction had progressed to the point that the developer selected another carrier to provide telephone service in lieu of having further construction occur on the newly completed property.

- **Embarq - Greater Lakes/Sawgrass Bay subdivisions in Lake County**

The Commission approved Embarq's petition.[212] The developer entered into a non-exclusive bulk services agreement with Bright House Networks, LLC (Bright House) where payment for data and video services will be collected through monthly homeowner association dues. Homeowners will be paying Bright House for data and video services whether or not the services are used. Bright House will also be offering its digital phone service on an individual subscriber basis. Embarq demonstrated that the anticipated take rate of its telephone service and other offerings (video and data) would most likely result in a situation where the company would not be able to recover its infrastructure costs in a five-year period, which the Commission determined to be a reasonable expectation.

B. INCUMBENT LOCAL EXCHANGE COMPANY SERVICE QUALITY

ILECs are required by Commission rules to adhere to certain service quality standards while providing basic local telecommunications.[213] The service quality standards are usually expressed as a percentage. For example, Rule 25-4.070, Customer Trouble Reports, states that 95 percent of all out-of-service (OOS) conditions reported by the individual subscriber shall be restored to service within 24 hours. In addition, the ILECs are allowed certain considerations when reporting the percentages related to OOS conditions. Specifically, when the exchange contains more than 50,000 access lines, the OOS percentages are reported monthly; otherwise, the ILEC aggregates the results quarterly. Another standard found within the same rule involves troubles that are service-affecting troubles.

Service-affecting troubles are of a lesser severity than an OOS condition. They are typically related to features associated with the telephone service 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 same considerations involving the number of access lines per exchange allow the ILECs to aggregate results when the exchange has fewer than 50,000 lines; otherwise, service-affecting troubles are reported monthly.

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[211] FPSC Order No. PSC-07-0785-PAA-TL, Docket No. 070357-TL, Petition for relief from carrier-of-last-resort (COLR) obligations pursuant to F.S. 364.025(6)(d) for Cabana South Beach Apartments, Phase II, in Alachua County, by BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast, issued September 26, 2007.

[212] FPSC Order No.PSC-08-0111-PAA-TL, Docket No. 070678-TL, Petition by Embarq Florida, under Section 364.025(6)(d), F.S., for relief from its carrier-of-last-resort obligations at the Greater Lakes/Sawgrass Bay subdivisions located in Lake County, Florida, issued February 19, 2008.

[213] Chapter 25-4 Florida Administrative Code.

The Commission evaluates the ILEC service quality of certain exchanges throughout the state on a yearly basis, but no more than once in four years for exchanges served by the small ILECs.[214] The service quality evaluations examine such areas as:

- Answer time, which includes voice and Telecommunications Device for the Deaf (TDD) calls to both the ILEC business and repair service offices.
- Adequacy of directory services, which includes a directory review and whether a customer's new number is properly listed in the directory.
- Availability of service (installation).
- Subscriber loops – Transmission (tested according to industry standards).
- Repair service, which includes out-of-service restored within 24 hours, service-affecting events restored within 72 hours, and rebates.
- Periodic report review.
- Safety, which includes electrical ground checks.
- Timing and billing accuracy, which includes IntraLATA 1+ calls, calling card calls, and directory assistance billing.
- 911 Emergency Service, which includes voice and TDD call completions.

The ILEC service quality reports published between June 1, 2006 and December 31, 2007 (the time period covered in the current report) included AT&T, Smart City Telecommunications, LLC, and Verizon.[215]

A Verizon service quality evaluation conducted in 2006 indicated that Verizon was not always providing automatic rebates as required by Rule 25-4.070(3)(a), F.A.C. A docket was opened to address Verizon's failure to provide rebates. The Commission subsequently accepted Verizon's proposal to issue a refund to the affected customers beginning with the first billing cycle in April 2007.[216] Verizon estimated the amount to be refunded as approximately $63,000.

The Attorney General, the Office of Public Counsel (OPC), and AARP (the Petitioners) filed a petition on May 15, 2008, requesting the FPSC to issue a show cause order against

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[214] Small ILECs are Indiantown, Frontier, FairPoint, Smart City, TDS Telecom, Northeast Florida Telephone Company, and Windstream.

[215] 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/telecomm/servicequality/index2.aspx.

[216] FPSC Order No. PSC-07-0399-PAA-TL, Docket No. 070150-TL, Investigation and determination of appropriate method for issuing time-out-of-service credits to all affected customers of Verizon Florida LLC., issued May 8, 2007.

Verizon for violation of Commission service quality rules.[217] The Petitioners allege that Verizon willfully violated the Commission's service quality rule 262 times in 2007. The rule relates to restoration of out-of-service and service-affecting trouble reports.[218] The company is required by rule to repair 95 percent of their service interruption complaints in each exchange within 24 hours and 95 percent of its service-affecting trouble reports in each exchange within 72 hours. The Petitioners request that the Commission issue a show cause order requiring Verizon to show cause why it should not be fined approximately $6.5 million. A formal schedule has not yet been established.

ILECs are allowed to petition the Commission for approval of a service guarantee program (SGP) which relieves the ILEC of the rule requirement addressed by each service standard in the SGP.[219] An SGP contains financial incentives for compliance with certain service quality standards as established by the SGP. The financial incentives may take the form of a credit to an individual customer for service outages exceeding a certain level or may provide for the ILEC to make payments to a fund in the event it fails to achieve a certain compliance percentage on a particular service standard established by the SGP. Currently three ILECs—AT&T, Embarq, and Windstream—are operating under Commission-approved SGPs.

1. AT&T

AT&T's SGP became effective May 20, 2005.[220] It provides automatic credits to residential customers for service outages exceeding 24 hours and automatic credits for missing service installation commitment dates by more than three days. AT&T paid its customers $246,600 for missed installation commitments and $2,204,551 for not repairing out-of-service trouble reports within 24 hours during the period from June 1, 2006 through December 31, 2007. Another component of AT&T's SGP credits a community fund used to promote the Lifeline Program when monthly average answer times fall outside certain SGP standards. However, AT&T's average answer time compliance was greater than 90 percent for this 18-month period and credits to the community fund were unnecessary.

2. Embarq

Embarq's current SGP became effective October 19, 2005.[221] It provides automatic credits to residential customers for service outages exceeding 24 hours and automatic credits for missed installation commitment dates of greater than three days. For the period June 30, 2006 through December 31, 2007, Embarq credited its customers $933,800 for missing the service

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[217] Docket No. 080278-TL, Joint Petition for show cause proceedings against Verizon Florida LLC for apparent violation of Rule 25-4.070, F.A.C., service availability, and impose fines, by the Office of the Attorney General, Citizens of the State of Florida, and AARP.
[218] Rule 25-4.070, F.A.C., Customer Trouble Reports.
[219] Rule 25-4.085, F.A.C., Service Guarantee Program.
[220] FPSC Order No. PSC-05-0440-PAA-TL, Docket No. 050095-TL, Petition for extension of modification of existing Service Guarantee Program and for limited Waiver of Rules 25-4.070(3)(a) and 25-4.073(1)(d), F.A.C., by BellSouth Telecommunications, Inc, issued April 25, 2005.
[221] 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 25-4.066(2), 25-4.070(3)(a), 25-4.073(1)(a), and 25-4.110(6), F.A.C., by Sprint-Florida, Incorporated, issued September 19, 2005.

installation commitments and $1,204,068 for not restoring residential service outages within 24 hours.

Embarq's SGP answer time standard is an average speed of less than or equal to 50 seconds. The SGP provides that answer time will be measured as a monthly average speed of answer. For missing its answer time standard, the program also requires Embarq to contribute to a community fund used to promote its Lifeline service. Embarq credits the community fund each month when its monthly average answer speed exceeds the standard. During this 18-month period, Embarq paid $140,000 to its community fund.

3. Windstream

Windstream's SGP was approved by the Commission in 2006.[222] The program has similar service standards concerning service installations, repair intervals, and answer times to those of AT&T and Embarq. Windstream's SGP also contains provisions that result in payments to either the individual customer or a Community Service Fund when the standards are not met.

Windstream provided $7,500 in credits to customers for failing to install service on the agreed upon date, credited $8,736 to those customers experiencing out-of-service conditions, and provided $4,000 to the Community Service Fund used to promote Lifeline service for the 18-month time frame.

C. INTEREXCHANGE COMPANY TARIFF COMPLIANCE EVALUATIONS

An investigation docket of Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance was opened following the tariff compliance evaluations of interexchange carriers. The investigation found that Verizon Long Distance overcharged subscribers $89,559.50 for calling card calls made from September 2004 through August 2006. The company was ordered to issue refunds plus interest to the affected customers beginning with the first billing cycle in October 2006.[223]

After a tariff compliance investigation of Global Crossing Telecommunications, Inc., the Commission required the company to issue refunds to affected customers who were being overcharged while using the Homesaver 1+ and calling card plans.[224] Total credits issued were $3,300.

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[222] Docket 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.

[223] FPSC Order No. Docket No. 060578-TI, Investigation of Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance, issued October 9, 2006.

[224] FPSC Order No. PSC-07-0849-PAA-TI, Docket No. 070419-TI, Investigation and determination of appropriate method for issuing refunds to affected customers for apparent overcharges by Global Crossing Telecommunications, Inc. for Homesaver 1+ and calling card plans, issued October 22, 2007.

D. 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 Embarq (formerly Sprint) in January 2003, and for Verizon in June 2003. Commission staff captures the performance measurement data monthly from each ILEC and applies trending analysis. Staff also reviews each ILEC's performance measurement plan at recurring intervals.

For AT&T, the Commission adopted a Performance Assessment Plan comprised of a Service Quality Measurement Plan (SQM) and a Self-Effectuating Enforcement Mechanism (SEEM) Administrative Plan. The SQM is a detailed description of AT&T's wholesale performance measurements. The SEEM Plan includes key SQM measures to which remedy payments are applied if AT&T fails to meet the performance standards approved by this Commission. In March 2006, the Commission approved revisions to AT&T's Performance Assessment Plan to remove delisted UNEs per the FCC's TRO and the TRRO. In April 2007, the Commission approved further revisions. The majority of the 2007 revisions were clarifications and correction of errors. AT&T's current Performance Assessment Plan consists of 49 SQM measurements and 35 SEEM measurements where remedies may be applied. AT&T paid approximately $2.1 million in SEEM remedies to CLECs and to the State of Florida from January 2007 to December 2007.

The Commission approved revisions to Embarq's Florida Performance Measurement Plan effective January 2007. The revisions include removal of UNEs from Embarq's Performance Measurement Plan that have been delisted per the TRO and TRRO. Embarq's current Performance Measurement Plan contains 36 performance measures to ascertain if the ILEC is providing nondiscriminatory service to CLECs. Embarq furnishes monthly performance reports to the Commission for review and assessment as well as prepares a monthly root cause analysis report of measurements that have not met established standards for three consecutive months. The root cause analysis reports highlight problematic performance measures, propose remedial actions, and establish a timeline for each correction. Between January 2007 and December 2007, Embarq's monthly compliance with established standards has ranged from 91.0 percent to 96.2 percent. This range is not a significant deviation from prior years.

In November 2007, the Commission also approved revisions to Verizon's Florida Performance Measurement Plan. Similar to Embarq, the revisions include removal of UNEs from Verizon's Performance Measurement Plan that have been delisted per the TRO and TRRO. Verizon's current Performance Measurement Plan contains over 40 measures. Under this plan, Verizon furnishes monthly performance reports to the Commission for review and assessment. Between January 2007 and December 2007, Verizon's monthly compliance with approved standards ranged from 89.3 percent to 95.7 percent. This range is not a significant deviation from prior years.

E. COMPETITIVE MARKET ACTIVITIES

1. Complaints by Bright House and Comcast

Bright House Networks Information Services (Florida) LLC, and Bright House Networks, LLC (together, "Bright House") filed a complaint and request for emergency relief with the Commission on November 16, 2007. Bright House alleges that Verizon is engaging in anticompetitive behavior and is failing to facilitate the transfer of customers' numbers to Bright House upon request, contrary to Rule 25-4.082, F.A.C.[225]

Comcast Phone of Florida, L.L.C. d/b/a Comcast Digital Phone ("Comcast") filed a similar complaint and request for emergency relief with the Commission on January 10, 2008. Comcast alleges that Verizon is engaging in anticompetitive behavior and violating the same Florida Statute and Commission Rule as alleged by Bright House in the aforementioned complaint.[226]

In these two cases involving the complaints of Bright House and of Comcast against Verizon, the issues are identical, and the alleged circumstances are substantially similar. The Commission has consolidated the two cases for administrative ease. The cases are set for hearing August 28 and 29, 2008.

2. Petition for Rulemaking by AT&T, Verizon, Embarq, Windstream, and TDS Telecom

In March 2008, Verizon, AT&T, Embarq, TDS Telecom, and Windstream (the Petitioners) filed a petition (the Petition) with the FPSC to create new rules under Chapter 25-24, F.A.C., and amend and repeal other rules under Chapter 25-4, F.A.C., and 25-9, F.A.C.[227] The Petition seeks to simplify and clarify the Commission's telecommunications rules by revising existing rules and adding a new rule to reflect changes in Florida's telecommunications industry, and by eliminating those rules that are obsolete or add little to statutory provisions. The Petitioners believe the requested changes "will further enhance the competitiveness of Florida's telecommunications market, where a consumer and competitive driven marketplace will ensure reasonable and adequate protections for consumers."

The Petitioners are proposing a new rule that includes a market competition test that would trigger streamlined regulation of price-cap ILECs. The test is based on the availability of

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[225] Docket No. 070691-TP, Complaint and request for emergency relief against Verizon Florida, LLC for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Bright House Networks Information Services (Florida), LLC, and its affiliate, Bright House Networks, LLC.

[226] Docket No. 080036-TP, Complaint and request for emergency relief against Verizon Florida, L.L.C. for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Comcast Phone of Florida, L.L.C. d/b/a Comcast Digital Phone.

[227] Docket No. 080159-TP, Joint petition to initiate rulemaking to adopt new rule in Chapter 25-24, F.A.C., amend and repeal Rules in Chapter 25-4, F.A.C., and amend rules in Chapter 25-9, F.A.C., by Verizon Florida LLC, BellSouth Telecommunications, Inc. d/b/a AT&T Florida, Embarq Florida, Inc., Quincy Telephone Company d/b/a TDS Telecom, and Windstream Florida, Inc.

at least three local service access alternatives (e.g., wireline, wireless, broadband, cable, or other technology) within a market. Streamlined regulation would be triggered when two-thirds (2/3) or more of the households in the market have access to at least three different providers (the ILEC provider plus two other providers) using any local service access alternative. A market is defined by the Petitioners as a Standard Metropolitan Statistical Area, an exchange, the company's service territory, or on such other basis as submitted by the telecommunications company. The rules which would no longer apply to a company that meets the competition criteria include topic areas such as periodic reports, audit access to records, system maps, availability of service, adequacy of service, preferred carrier freeze, service guarantee program, directory assistance, service evaluation and investigations, and tariff filing.

The Petitioners are recommending modifying or eliminating rules pertaining to rate-of-return regulated companies. The Petitioners assert that these rules are not applicable to price-cap regulated companies and include such topics as the Uniform System of Accounts, depreciation, and retirement units. Other suggested changes address records and reports in general, complaint trouble reports, and directory assistance. Frontier is the only rate-of-return ILEC in Florida.

Broadly speaking, the proposed changes would affect reporting requirements, quality of service, and competitive markets. On April 8, 2008, the Commission approved FPSC staff's recommendation to proceed with rulemaking on the basis of the companies' petition. FPSC staff conducted a workshop with the Petitioners in May 2008. Further proceedings are pending as of this writing.

F. LIFELINE AND LINK-UP SERVICE FOR LOW-INCOME CONSUMERS

The number of eligible customers participating in the Lifeline program in Florida grew 13 percent during the 2006-2007 review period, representing the largest annual increase since inception of the program. Participation in the program increased from 145,734 as of September 2006 to 164,626 customers as of September 2007.[228]

In June 2008, the FPSC designated Tracfone, a wireless reseller, as an eligible telecommunications carrier (ETC) to provide Lifeline service.[229] Tracfone had previously demonstrated its ability to provide service in other states when it was designated by the FCC as an ETC to provide temporary Lifeline support after Hurricane Katrina.[230] Pursuant to the FPSC's Order, each Lifeline customer will receive 68 minutes of free airtime each month. If the customer uses all of the free Lifeline airtime, that account will remain active and will have an

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[228] September 2006 and 2007 Lifeline enrollment is based on responses to FPSC data requests. Based on USAC reimbursement payments to Florida carriers, an estimated 173,000 customers were subscribed to Lifeline service as of December 2007.

[229] FPSC Order No. PSC-08-0418-PAA-TP, Application for designation as an eligible telecommunications carrier (ETC) by Tracfone Wireless, Inc. for limited purpose of offering lifeline service to qualified households, issued June 23, 2008.

[230] FCC 05-178, CC Docket No. 96-45, Federal-State Joint Board on Universal Service, Order, released October 14, 2005. The Lifeline rules were in effect from the release date of the Order until March 1, 2006 and affected Alabama, Louisiana, and Mississippi.

opportunity to buy additional airtime by purchasing prepaid cards.[231] Customers will always be able to contact 911 from their wireless handset, regardless of whether they have depleted their free Lifeline minutes or additional airtime.

The FPSC supports the intent of the Lifeline and Link-Up programs which is to help low-income households obtain and maintain basic telephone service. The FPSC is actively engaged with the FCC, the Universal Service Administrative Company (USAC), and the Federal-State Joint Board on Universal Service (Joint Board) regarding national policies relating to the Lifeline and Link-Up programs. The FPSC, in coordination with various public, private, and telecommunications industry participants, is implementing strategies to further improve the Lifeline and Link-Up programs in Florida. In addition, the FPSC is monitoring the results of these initiatives to determine their effectiveness. The following sections address initiatives the FPSC conducted in 2007.

1. Implementation of the Lifeline Automatic Enrollment Process

The FPSC and Department of Children and Families (DCF) implemented a Lifeline automatic enrollment process in April 2007. Potential Lifeline customers, once certified through a DCF qualifying program, may have their name forwarded to the FPSC. In turn, the FPSC forwards an automatic e-mail informing the appropriate ETC that a Lifeline application is available for retrieval through the Commission's secure database.

The automatic enrollment process allows the DCF applicant to check a "yes" box on the DCF application affirming that the applicant would like to receive a discount on his or her telephone service. The "no" box provides an option to the applicant to not subscribe to Lifeline service. If the applicant answers yes, the applicant is directed to provide applicable information needed for Lifeline enrollment, and to then continue completing the DCF application. If the applicant has existing phone service, the application is automatically forwarded to the appropriate ETC by the FPSC for enrollment in the Lifeline program. If the applicant answers no, the applicant is directed to continue completing the DCF application to enroll in a DCF program. The FPSC and DCF are continuing to work together to make enrolling in the Lifeline program easier for applicants. The FPSC has received over 184,000 Lifeline applications since the inception of the joint FPSC/DCF process in April 2007.

2. Amendment of Rule 25-4.0665, F.A.C., Lifeline Service

Pursuant to Section 364.10(3)(h)(2), F.S., as amended during the 2007 Legislative Session, any state agency that determines a person is eligible for Lifeline service is required to immediately forward the information to the FPSC to ensure that the person is automatically enrolled in the Lifeline program. This section required the FPSC to adopt rules by December 31, 2007, creating procedures to automatically enroll eligible customers in Lifeline service.

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[231] Tracfone will offer $2, $5, $10 cards that are usable by only Lifeline consumers. There will be no expiration on minutes from these prepaid cards and the effective rate of these cards is $0.20 per minute.

The FPSC approved proposed amendments to Rule 25-4.0665, F.A.C., Lifeline Service, on September 25, 2007. The FPSC adopted the proposed amendments, and they became effective December 6, 2007.

3. Lifeline Memorandum of Understanding

Section 364.10(3)(h)(3), F.S., required the FPSC, DCF, and OPC to enter into a Memorandum of Understanding (MOU) with respect to the development of automatic enrollment procedures for Lifeline. An MOU was signed by the parties on September 27, 2007.[232]

4. Bundled Service Discount

In June 2008, the FPSC determined that ETCs in Florida will be required to apply the Lifeline discount to any bundled service package that includes basic local telephone service. This discount will only apply to the voice component of the service bundle. Since August 2007, 5,961 Lifeline applications have been rejected on the basis of the Lifeline eligible customers' desire to subscribe to a package of services. Requiring ETCs to apply the discount to any service package of the customer's choice will remove a barrier to enrollment and should boost participation in the Lifeline program. Verizon, Alltel, and Sprint Nextel have all protested the Commission decision and requested a formal hearing.

G. ELIGIBLE TELECOMMUNICATIONS CARRIERS (ETC)

Section 214(e)(2) of the federal Telecommunications Act of 1996 grants state commissions authority where they have jurisdiction, to designate as an ETC a common carrier that meets certain requirements. A carrier that is granted ETC status is eligible to receive federal universal service support pursuant to FCC rules.[233] To qualify as an ETC, a common carrier must offer services that are supported by federal universal service support mechanisms either using its own facilities or using a combination of its own facilities and another carrier's resold service. Additionally, the carrier must advertise the availability of such services and charges using a general distribution medium.

The state commission may, as long as the request is consistent with the public interest, convenience, and necessity, designate one or more common carriers as ETCs for a service area. All ILECs in Florida have been designated as ETCs by the Florida Public Service Commission.[234] The FPSC has also designated six wireline CLECs in Florida as ETCs.[235] The

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[232] The MOU is available for review on the FPSC's Web site: <http://www.floridapsc.com/utilities/liaison/index.aspx>.

[233] 47 C.F.R. Part 54 – Universal Service.

[234] The incumbent local exchange companies were designated as ETCs for purposes of the federal universal service program through FPSC Order No. PSC-97-1262-FOF-TP, issued October 14, 1997.

[235] Knology of Florida, Inc., FPSC Order No. PSC-05-0324-PAA-TX, issued March 21, 2005; Budget Phone, Inc., Order No. PSC-05-1255-PAA-TX, issued December 27, 2005; Ganoco, d/b/a American Dial Tone, FPSC Order No. PSC-06-0298-PAA-TX, issued April 14, 2006; Nexus Communications, Inc. d/b/a Nexus Communications TSI, Inc., FPSC Order No. PSC-06-0350-PAA-TX, issued April 25, 2006; Vilaire Communications, Inc., FPSC Order

FCC has designated Sprint PCS, Nextel Partners, and Alltel Wireless as wireless ETCs in nonrural areas of Florida. Following their ETC designation, Sprint PCS and Nextel Partners merged. Tracfone, a wireless reseller, has been granted ETC status by the FPSC for the limited purpose of providing Lifeline benefits. The FCC has designated Tracfone as an ETC in other states for the provision of Lifeline services.

The FPSC initially determined that it did not have the authority to grant ETC status to wireless telecommunications providers.[236] However, Alltel Wireless filed two petitions with the FPSC to revisit the issue in two separate service areas on August 30, 2006. Alltel Wireless contended that because of legislative changes enacted in 2005, the FPSC now had the statutory authority to grant ETC status to wireless carriers in Florida. The FPSC subsequently concluded that it had authority to consider applications by wireless providers for ETC designation in Florida.[237]

As part of the FPSC's ongoing effort to monitor federal universal service monies being distributed to ETCs in Florida, the FPSC reviews the Universal Service Administrative Company's (USAC) disbursement database on a monthly basis. The FPSC has also begun conducting audits of selected ETCs designated by this Commission that receive federal universal service funds. To date, the audits have been completed for FairPoint and Vilaire Communications, Inc. (VCI). These audits began in September 2007. Preliminary audits were started in the first quarter of 2008 for Midwestern Telecommunications, Inc. and Nexus Communications. USAC is also conducting confidential audits of some ILECs in Florida.

Because of the rapid growth in Lifeline customers served by VCI[238] and the FPSC's commitment to monitor Universal Service Funds received by ETCs, staff sent a data request to VCI on May 4, 2007, seeking additional information on VCI's policies regarding Link-Up and Lifeline. Staff initiated an audit of VCI's Lifeline and Link-Up support. Based on staff's investigation, staff recommended rescinding VCI's ETC designation on January 31, 2008. The order that resulted was protested by VCI, and the matter was scheduled for a formal hearing on June 4, 2008. VCI, after not responding to Commission discovery, elected not to participate or attend the hearing. As a result, the FPSC reinstated its original order, revoking the carrier's certificate to provide telecommunications services in Florida and its ETC designation. The federal administrator of the universal service program has acknowledged this order, and no

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No. PSC-06-0436-PAA-TX, issued May 22, 2006; and Midwestern Telecommunications, Inc., FPSC Order No. PSC-06-0750-PAA-TX, issued September 5, 2006.

[236] FPSC Order No. PSC-03-1063-DS-TP, Docket No. 030346-TP, Petition for declaratory statement that NCPR, Inc. d/b/a Nextel Partners, commercial mobile radio service provider in Florida, is not subject to jurisdiction of Florida Public Service Commission for purposes of designation as "eligible telecommunications carrier," and Petition for declaratory statement that Alltel Communications, Inc., commercial mobile radio service provider in Florida, is not subject to jurisdiction of Florida Public Service Commission for purposes of designation as "eligible telecommunications carrier," issued September 23, 2003.

[237] FPSC Order No. PSC-07-0288-PAA-TP, Docket No. 060582-TP, Petition of Alltel Communications, Inc. for the Designation as Eligible Telecommunications Carrier (ETC) in Certain Rural Telephone Company Study Areas Located Entirely in Alltel's Licensed Area, issued April 3, 2007.

[238] VCI's Florida monthly reimbursements from USAC went from $5,197 in August 2006 to $80,004 in December 2007 with the highest month being March 2007, with $157,041 being reimbursed.

further support to VCI will be forthcoming.[239] VCI filed a motion for expedited stay of the Commission's order with the Florida First District Court of Appeals on June 13, 2008. The Court denied VCI's motion on July 15, 2008.

H. CLEC NICHE-MARKET PROVIDERS

There are several open proceedings before the FPSC to address issues regarding interconnection obligations, arbitration rights, standing, and applicable law. While the Commission has dealt with similar matters in the past, these proceedings are unique because of the limited or niche-market services being offered by two CLECs, Neutral Tandem, Inc. (Neutral Tandem) and Intrado Communications, Inc. (Intrado). By offering only a select component of local service, these companies are not viewed as traditional local exchange telecommunications providers by some in the industry; as such, legal, technical, and policy issues have been brought before the FPSC. A summary of the proceedings is provided below, as well as a description of services offered by Neutral Tandem and Intrado.

1. Alternative Tandem Transit Service

Neutral Tandem is a certificated CLEC offering tandem transit services as an alternative means for carriers to interconnect and exchange local traffic with each other, without using an ILEC for this function.[240] Neutral Tandem outlined its interconnection dispute with Level 3 Communications (Level 3) in a petition filed with the FPSC on February 26, 2007.[241] Neutral Tandem requests that the FPSC require interconnection with Level 3. Level 3 believes that because Neutral Tandem is providing a limited service (the tandem transit function), and not "local exchange telecommunications services," it is not obligated to interconnect, either directly or indirectly, with Neutral Tandem. Moreover, Level 3 called into question the Commission's jurisdiction over this matter and whether Neutral Tandem even has standing to seek relief under Chapter 364, F.S.

Subsequent pleadings were made by both parties, and the FPSC heard oral argument. The FPSC addressed specific legal issues at its January 8, 2008 Agenda Conference and found:

- The FPSC has jurisdiction pursuant to Section 364.16(2), F.S., to ensure that a CLEC provides access to and interconnection with its telecommunications services to any other provider of local exchange telecommunications services.

- A determination of whether Neutral Tandem has standing to petition this Commission for interconnection with Level 3 requires a comprehensive understanding of the services offered in Florida by Neutral Tandem.

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[239] Karen Majcher, Vice-Present, High-Cost and Low Income Division, Universal Service Administrative Company, Letter regarding Rescission of VCI Company's ETC Status in Florida to Stanley Johnson, President VCI Company, June 12, 2008.

[240] Tandem transit services provides a means to transit traffic that originates on the network of one carrier, transits over a second carrier's network, and then terminates on the network of a third carrier.

[241] Docket No. 070127-TP was opened to address the first petition filed in February 2007. Docket No. 070408-TP was opened to address the second petition filed in July 2007.

Consequently, Level 3's Motion to Dismiss was denied, and staff was directed to set the matter for hearing. The issue of standing, as well as other outstanding issues, was to be addressed at an administrative hearing scheduled for September 24-25, 2008; however, Neutral Tandem filed a Notice of Voluntary Dismissal advising that the companies have reached a negotiated settlement which resolves all issues currently before the Commission.

2. Alternative 911/E911 Services

Intrado Communications, Inc. (Intrado), a certificated CLEC, seeks to offer Public Safety Answering Points a competitive alternative to the ILECs' 911/E911 network.[242] Intrado filed three separate petitions for arbitration, pursuant to state and federal law, seeking to establish interconnection agreements with Embarq, AT&T, and Verizon. As a threshold matter, the Commission must determine whether the three ILECs are required under Section 251(c) of the Telecommunications Act of 1996 to offer interconnection to Intrado for the services Intrado provides. Administrative hearings for Intrado/Embarq and Intrado AT&T were held on July 9 and July 10, 2008, respectively. A procedural schedule has not yet been established for the Intrado/Verizon arbitration.

I. Tariff Filings to Expand Flat Rate Local Calling

Embarq began a restructure of its basic service rates through tariff filings which were effective March 11, 2008, and May 13, 2008, respectively. In these filings, Embarq eliminated per call and per minute charges for residential extended local calling and eliminated like charges for business customers on certain routes. Concurrent with expanding flat rate local calling, Embarq increased basic monthly rates and collapsed the existing five rate bands to two rate bands. The net effect of the various changes was a basic service revenue increase of 1.26 percent.

On June 11, 2008, AT&T filed to eliminate all charges for Extended Calling Service, effective July 11, 2008. In conjunction with this change, AT&T increased basic monthly rates. The net effect of the various changes was a basic service revenue increase of 1.63 percent.

Pursuant to Section 364.051(3), F. S., price regulated LECs such as Embarq and AT&T may "adjust [their] basic service revenues once in any 12-month period in an amount not to exceed the change in inflation less 1 percent." Inflation is measured by the Gross Domestic Product Fixed Weights Price Index, per statute.

J. Tropical Storm Damage Recovery

Section 364.051(4)(b), F.S., provides that damage occurring to lines, plants, or facilities of a local exchange telecommunications company (ILEC) that is subject to the COLR obligations, as a result of a named tropical storm occurring after June 1, 2005, constitutes a compelling showing of changed circumstances, and costs may be recoverable through guidelines

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[242] Docket No. 070699-TP was opened to address the Intrado/Embarq petition. Docket No. 070736-TP was opened to address the Intrado/AT&T-Florida petition, and Docket No. 080134-TP was opened to address the Intrado/Verizon petition.

established in the statute. The Commission must verify a petitioner's intrastate costs and expenses and determine whether the intrastate costs and expenses are reasonable under the circumstances of the named tropical system. A recovery charge approved by the Commission cannot exceed $0.50 per month, per customer line, for a period of not more than 12 months. The Commission may order an assessment on a company's retail basic and nonbasic customers and, if appropriate, wholesale unbundled network element loop customers. The Commission must ensure that the eventual collections do not exceed the authorized amount and order refunds if necessary.

In September 2006, BellSouth Telecommunications, Inc. (now AT&T), requested approval for a $0.50 per month surcharge over 12 months to recover $34.6 million in storm costs incurred during 2005.[243] The Commission approved the surcharge for retail access lines (excluding Lifeline customers) and wholesale unbundled network element loops in December 2006.[244] The Commission also ordered that the charge be assessed only on activated channels of high capacity lines and loops. The surcharge was in effect for the 12-month period beginning February 2, 2007.

Embarq requested recovery of 2005 tropical system related costs of approximately $10 million through a $0.50 per month surcharge over 12 months in September 25, 2006.[245] The Commission approved the surcharge for retail access lines (excluding Lifeline customers) and wholesale unbundled network element loops in January 2006.[246] The Commission approved a different method for applying the surcharge to certain retail business lines and wholesale loops than what was approved for BellSouth. The Commission required that imposition of the 2005 storm surcharge be delayed until the 2004 storm surcharge expired. The 2005 surcharge went into effect on October 7, 2007, and will run for 12 consecutive months.

K. Recent Changes in Florida Law

1. FPSC Telecommunications Annual Report (CS/CS/SB 1818)

The 2007 Florida Legislature passed legislation that amended Section 364.386, F.S. (F.S.), Reports to the Legislature.[247] The amendment contained changes to the reporting requirements for local exchange telecommunications carriers relating to the preparation of the FPSC's annual report to the Legislature on the Status of Competition in the Telecommunications Industry. The report, which was previously due on December 1 of each year, is now due on August 1, beginning in 2008 and each subsequent year. In addition to changing the report due date, the amendment also established statutory deadlines for the FPSC to issue its industry data request and the due date for responses to the request. The FPSC must issue its data request on or

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[243] Docket No. 060598-TL, Petition to recover 2005 tropical system related costs and expenses, by BellSouth Telecommunication, Inc.
[244] FPSC Order No. PSC-07-0036-FOF-TL, Docket No. 060598-TL, Petition to recover 2005 tropical system related costs and expenses, by BellSouth Telecommunication, Inc., issued January 10, 2007.
[245] Docket No. 060644-TL, Petition to recover 2005 tropical system related costs and expenses, by Embarq Florida, Inc.
[246] FPSC Order No. PSC-07-0126-FOF-TL, Docket No. 060644-TL, Petition to recover 2005 tropical system related costs and expenses, by Embarq Florida, Inc., issued February 12, 2007.
[247] CS/CS/SB 1818.

before March 1 of each year and the local exchange telecommunications companies must respond by April 15 of each year. Deadlines for these events were not previously addressed in statutes.

The amended statute also provides an option for companies to file FCC Form 477 in lieu of the FPSC quantitative data request, but access line data must be provided on an ILEC exchange (rate center) basis. This change, as well as the change in the due date of the report, was intended to ease the burden on CLECs in responding to the FPSC request. The revised schedule puts the FPSC report on a similar track as that of FCC reporting requirements. This report is the first under the new schedule and filing options.

2. Video Franchising Reform

House Bill (HB) 529 related primarily to reform of video franchising authority. However, the legislation also repealed certain telecommunications laws related to rate rebalancing and contained provisions to facilitate an automatic enrollment process for Lifeline assistance between the FPSC, DCF, and local exchange telecommunications companies.

The legislation shifted video franchise authority from the municipalities and counties to the State and established the Department of State as the entity to issue statewide cable and video franchises. This change is a departure from the traditional video franchise process that vested jurisdiction with local franchise authorities, usually county or municipal governments, to approve video franchise agreements. Consumer complaints associated with video and cable services will be transitioned from local franchise authorities to the Department of Agriculture and Consumer Services.

HB 529 repealed Section 364.164, F.S., relating to rate rebalancing and portions of Section 364.163, F.S., addressing access charge reductions and subsequent regulatory changes associated with rate rebalancing. The effect of these changes was to eliminate the ability of ILECs to petition the FPSC, pursuant to the rate rebalancing statute, to reduce intrastate switched network access charges, and to increase basic local service rates in a revenue neutral manner. Also eliminated were the provisions that permitted ILECs to request relaxed quality of service standards following completion of the intrastate access charge reductions. Finally, the provisions that permitted an ILEC to petition the FPSC to have its retail services treated the same as the retail services of CLECs were repealed.

The bill allowed basic local rate increases associated with rate rebalancing petitions that had already been implemented by July 1, 2007, to remain in effect. The switched network access charge rates in place on that date were established as caps through July 1, 2010.

Section 364.10, F.S., addressing Lifeline service, was amended to authorize state agencies to forward certain client-specific information to the FPSC once it determines a person is eligible for Lifeline. The FPSC is to forward the client's information to the appropriate eligible local telecommunications company, and the company will automatically enroll the client in the Lifeline program. A state agency must include an option for an eligible customer to choose not to subscribe to Lifeline. The FPSC and DCF implemented an automatic enrollment process in April 2007. The FPSC and DCF were required to adopt rules, by December 31, 2007, creating

procedures to automatically enroll eligible customers in Lifeline. Rules in compliance with the statute were adopted by the FPSC as of November 19, 2007.

In addition, the FPSC, DCF, and the OPC were required to enter into a Memorandum of Understanding (MOU) establishing their respective duties in the Lifeline automatic enrollment process by December 31, 2007. An MOU was signed off by all agencies on September 27, 2007.

3. Emergency Communications (E911) System (CS/CS/HB 919)

The legislation establishes "911" as the designated statewide emergency communications number. A public safety agency may not advertise or otherwise promote the use of any number for emergency response other than 911. The lead office responsible for the administration of the E911 system is the Technology Program office within the Department of Management Services.

"Voice communications service" is defined, for purposes of this law, as two-way voice service, through the use of any technology that provides access to E911 services. It includes communications services that provide access to E911 services and are required to be included in E911 services pursuant to FCC rules and orders. The term includes Voice-over-Internet-Protocol (VoIP) service, and these providers must also collect the E911 fee from their customers.

4. Carrier-of-Last-Resort Obligation

Section 364.025, F.S., Universal Service, provides that: "Until January 1, 2009, each local exchange telecommunications company shall be required to furnish basic local exchange telecommunications service within a reasonable time period to any person requesting such service within the company's service territory." This requirement is commonly referred to as the carrier-of-last-resort (COLR) obligation. The 2008 Florida Legislature adjourned without extending the expiration date, and absent a special session prior to January 1, 2009, the COLR obligation will sunset. Should the state COLR obligation sunset, incumbent local exchange telecommunications companies in the state will no longer be obligated by state law to serve any person requesting service. Federal law requires carriers designated as ETCs to offer services that are supported by federal universal service support mechanisms.[248] However, designated ETCs are <u>not</u> required to be able to serve <u>all</u> customers in their designated territory in order to secure ETC designation. Current FCC rules require ETCs to file a report every 12 months indicating the number of requests for service that the carrier is unable to fulfill. There are no established penalties for unfulfilled service requests; however, a provider would presumably be subject to revocation of ETC designation. To date, the FCC has yet to revoke an ETC designation for an unfulfilled service request, and it is not known whether any state has done so.

In addition to the expiration of the COLR obligation, the requirement to establish a permanent intrastate universal service mechanism will also expire as of January 1, 2009. The FPSC established an interim mechanism for funding universal service and carrier-of-last-resort

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[248] 47 U.S.C. Section 214(e)(1)(A).

responsibilities in December 1995.[249] As of this writing, the Legislature has not established a permanent universal service mechanism.

[249] FPSC Order No. PSC-95-1592-FOF-TP, Docket No. 950696-TP, Determination of Funding for Universal Service and Carrier-of-Last-Resort Responsibilities, issued December 27, 1995.

CHAPTER VII. FEDERAL ACTIVITIES

A. FORBEARANCE

Section 10 of the federal Telecommunications Act of 1996 (the 1996 Act) allows a telecommunications carrier to petition the FCC to refrain, or forbear, from applying any statutory provision or regulation if the FCC determines the forbearance petition meets three criteria. To approve a forbearance petition, the FCC must find that (1) the regulation is not necessary to ensure that the carrier's service charges, practices, classification, or regulations are just, reasonable, and not unjustly or unreasonably discriminatory; (2) enforcement of the regulation is not necessary for consumer protection; and (3) forbearance is consistent with the public interest. In determining whether forbearance is in the public interest, the FCC must consider "whether forbearance from enforcing the provision or regulation will promote competitive market conditions."[250]

Possible outcomes include approval, denial, or approval in part and denial in part. Forbearance petitions are "deemed granted" by operation of law if the FCC fails to act within one year from the date the petition is received.[251] The FCC may extend its consideration by 90 days. A petitioning party may also withdraw its petition prior to FCC action or before the statutory deadline.[252] State commissions are prohibited from applying any provision of the 1996 Act for which the FCC has granted forbearance. In recent years, there has been a significant increase in the number of forbearance petitions submitted to the FCC by telecommunications carriers. The petitioners have had varying degrees of success in obtaining relief from regulations. Some recent decisions are summarized below.

1. Forbearance Decisions

a. Broadband Services

Verizon was granted forbearance by operation of law from regulation with respect to its broadband services on March 19, 2006. Since the FCC could not reach consensus on the petition and the 15-month resolution period expired, the petition was "deemed granted" by operation of law. Parties sought judicial review with the D.C. Circuit Court arguing that the FCC's action was arbitrary and capricious because there was no consensus. The court denied the petitions for judicial review, holding that Congress, not the FCC, specifically made the decision in the 1996 Act that a forbearance petition is "deemed granted" if the FCC does not deny it in the required time frame.

During 2007, the FCC granted in part and denied in part petitions filed by AT&T, Embarq, Frontier, and Citizens[253] that requested similar broad forbearance relief relating to

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[250] 47 U.S.C. § 160(b).

[251] The FCC may extend the one year statutory deadline by 90 days. (47 U.S.C. § 160 (c))

[252] Of the 11 forbearance petitions slated for decision in 2007, 1 was granted in full, 2 were withdrawn, 3 were denied, and 5 were granted in part and denied in part.

[253] FCC 07-180, WC Docket No. 06-125, Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Its Broadband Services, Memorandum Opinion and Order, released October 12, 2007, and FCC 07-184, WC Docket No. 06-147, Petition of the Embarq, Frontier, and Citizens

broadband services as that "deemed granted" to Verizon. The FCC granted relief from dominant carrier regulation for high-capacity broadband services (packet-switched and optical transmission services),[254] but limited the relief to existing services only. The FCC held that the specified services be treated as nondominant and conditioned relief on compliance with obligations that apply to all non-incumbent LEC, facilities-based wireline carriers. In this regard, the carriers have pricing flexibility to tailor contracts to customers' specific needs, and do not have to file the contracts or provide cost justification. The carriers continue to be subject to the obligation to (1) charge just and reasonable rates; (2) interconnect upon demand; (3) fulfill Section 251 market-opening requirements; as well as (4) meet public policy obligations (such as 911/E911, emergency preparedness, customer privacy, and universal service). The FCC held that AT&T continues to be subject to the merger conditions it agreed to in the AT&T/BellSouth merger until they expire in December 2010.[255] Recognizing the disparate forbearance treatment afforded other similarly-situated competitors, the FCC committed to issue an order addressing Verizon's forbearance petition already "deemed granted" by operation of law. However, as of this writing the FCC has taken no further action relating to Verizon's forbearance status.

b. In-Region Long Distance Services and Equal Access

The FCC granted AT&T forbearance from applying certain dominant carrier regulations to in-region interstate long distance services on August 31, 2007. The FCC extended its decision to apply to all Bell Operating Companies (AT&T, Verizon, and Qwest), thereby creating a new framework to allow a Bell Operating Company to offer in-region interstate long distance services subject to nondominant carrier regulation. The FCC also granted forbearance from applying the Equal Access Scripting Requirement, an obligation requiring ILECs to inform new customers regarding choices of available long distance carriers and to read the customers a list of carriers offering long distance service in their area upon request. The FCC held that scripting requirements are no longer justified in today's competitive environment.

c. Accounting and Reporting Requirements

The FCC granted AT&T forbearance from applying various cost assignment accounting rules, subject to conditions, on April 24, 2008.[256] The FCC held that these rules are no longer relevant since AT&T's interstate and intrastate operations have shifted from rate-of-return to price-cap regulation or total deregulation. The FCC concluded that requested relief met the statutory requirements to grant forbearance. However, the FCC did not find that the related data would never be needed. Consequently, the FCC conditioned the forbearance relief on, among

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Local Operating Companies for Forbearance Under 47 U.S.C. § 160(c) from Application of Computer Inquiry and Certain Title II Common-Carriage Requirements, Memorandum Opinion and Order, released October 24, 2007.

[254] These include frame relay, Asynchronous Transfer Mode (ATM), Local Area Network (LAN), Ethernet, video-transmission, optical network, and wave-based services. AT&T excluded all traditional, Time Division Multiplex (TDM) based DS-1 and DS-3 services, and all services below 200 kbps in each direction.

[255] In the merger commitments, AT&T is required to freeze special access rates on all of its DS1 and DS3 loops and transport facilities for 42 months. AT&T was also required to reduce these rates further in areas where they have already been fully deregulated.

[256] These rules were created under rate-of-return regulation to assign or allocate costs and revenues between interstate and intrastate operations and between regulated and nonregulated activities.

other things, AT&T's commitment to provide accounting data upon request for regulatory purposes, including enforcement proceedings.

AT&T is required to file a compliance plan that explains how it will satisfy the FCC's conditions to provide useable data on a timely basis. The FCC held that the subject forbearance relief will not be granted before approval of AT&T's plan. AT&T remains subject to statutory safeguards regarding interconnection and unbundling obligations, just and reasonable and non-discriminatory pricing, enforcement, prohibition against cross-subsidization between regulated and non-regulated services, and dominant carrier regulation. The FCC emphasized that it does not preempt state accounting requirements adopted under state authority. AT&T is required to supply state commissions with any data they may need for determining UNE rates.

d. Pending

There are several forbearance petitions pending FCC decision in 2008-2009. At least two petitions involve treatment of VoIP traffic, two involve broadband forbearance, three involve dominant carrier and unbundling rules, and six involve accounting rules and Automated Reporting Management Information System (ARMIS) requirements.

2. FCC Rulemaking to Standardize Processing of Forbearance Petitions

In September 2007, Covad Communications Group, NuVox Communications, XO Communications, LLC, Cavalier Telephone Corporation, and McLeodUSA Telecommunications Services, Inc., filed a petition seeking establishment of procedures to govern the process the FCC uses to rule on forbearance petitions, including filing requirements, timelines, and issuance of written orders for all decisions. The FCC sought comment on the issues raised by the CLEC petition in a Notice of Proposed Rulemaking (NPRM) released November 20, 2007. The comment period has ended, but no final decision has been rendered. The FPSC did not file comments, but is monitoring the proceeding.

Subsequent to the release of the FCC's NPRM, two bills were filed in Congress to address one aspect of the forbearance process. Identical bills (H.R.3914 and S.2469) will, if enacted, strike the "deemed granted" provision. Deletion of this provision would compel the FCC to render a decision on each petition filed, instead of granting tacit approval by failing to act.

B. UNIVERSAL SERVICE

Florida consumers pay significantly more into the federal universal service fund than the amount of support that is returned to eligible service providers in Florida.[257] For this reason, the FPSC has continued to actively monitor and participate in ongoing proceedings at the FCC and with the Federal-State Joint Board on Universal Service (Joint Board). The FCC asked the Joint

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[257] FCC, "Universal Service Monitoring Report," CC Docket No. 98-202, released December 28, 2007, Table 1.12, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-279226A1.pdf>, accessed on May 14, 2008.

Board to review the FCC's rules relating to the high-cost universal service support mechanisms for rural carriers.[258]

1. Review of Rural High-Cost Support

While the Joint Board has issued its recommendation to the FCC, no final order establishing comprehensive reform has been released. The FCC has, however, taken interim steps to limit additional growth in the high-cost fund by placing a cap on the amount of support competitive ETCs can receive in April 2008.[259] The decision is intended to control a major source of growth in the fund while more comprehensive reform is addressed.

Under the current rules, rural carriers receive high-cost support based on their historical costs. By comparison, non-rural carriers receive support based on forward looking costs. Competitive carriers that have been designated as an ETC within a specific area can also receive high-cost support. The amount of support a competitive ETC can receive is based on the equivalent per line support amount the incumbent receives, and not on the competitive ETC's own costs.

High-cost support for rural carriers represents approximately 76 percent of the high-cost fund, or about $3.28 billion for 2007.[260] By comparison, the total federal universal service program for 2007 was about $7.2 billion. The amount of high-cost support that competitive ETCs have received has increased significantly. In 2001, competitive ETCs received approximately $17 million in high-cost support.[261] By 2007, competitive ETCs received $1.1 billion in high-cost support.[262]

The first public notice issued in this proceeding by the Joint Board requested comment on the definition of rural carriers, the appropriate cost basis for support (historical or forward-looking), and the support basis for exchanges that are transferred from carrier to carrier.[263] Additional public notices followed that addressed specific proposals developed by the state Joint Board members[264] and the use of reverse auctions[265] to size and distribute high-cost support.[266]

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[258] FCC 04-125, CC Docket No. 96-45, Federal-State Joint Board on Universal Service, Order, released June 28, 2004.

[259] FCC 08-122, CC Docket No. 96-45, WC Docket No. 05-337, Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, Order, released May 1, 2008.

[260] FCC, "Universal Service Monitoring Report," CC Docket No. 98-202, released December 28, 2007, Table 3.2, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-279226A1.pdf>, accessed on May 14, 2008.

[261] Ibid.

[262] Ibid.

[263] FCC-04J-2, CC Docket No. 96-45, Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support, Public Notice, released August 16, 2004.

[264] FCC 05J-1, CC Docket No. 96-45, Federal-State Joint Board on Universal Service Seeks Comment on Proposals to Modify the Commission's Rules Relating to High-Cost Universal Service Support, Public Notice, released August 17, 2005.

[265] In a reverse auction, sellers compete to obtain business. In the case of universal service, eligible providers would compete to win universal service support by driving down the amount of support they would need to provide supported services throughout the designated area.

On May 1, 2007, the Joint Board recommended that the FCC establish an interim cap on the amount of support that competitive ETCs can receive while the Joint Board continued its deliberations.[267] At the same time, the Joint Board also issued a separate further public notice seeking comment on establishing a permanent cap on the size of the high-cost fund, industry reverse auction proposals, GIS (Geographic Information System) cost modeling technology, and expanding the definition of supported services to include broadband and mobility (i.e., wireless) services.[268] The Joint Board released its recommendation on November 20, 2007.[269] In general, the Joint Board concluded that the FCC should:

- Cap the total amount of high-cost support at the current level.
- Eliminate the identical support rule which provides support to competitors based on the incumbent carrier's costs.
- Expand the list of supported services to include broadband and mobility services through new high-cost programs.
- Transition to fund only one provider for each service type (i.e., broadband, wireless, and wireline) for a geographic area.
- Consider requiring state matching support as a condition of receiving support beyond some threshold amount for the broadband and mobility funds.

The Joint Board's Recommended Decision is not binding on the FCC. The FCC is, however, required to act on the Joint Board's recommendation within one year.

The FCC has subsequently asked for comments on the Joint Board's recommendation, as well as two other public notices addressing related high-cost reform issues.[270] While awaiting these comments, the FCC has implemented the interim cap on support available to competitive ETCs recommended by the Joint Board.[271] The FCC has indicated that it sees this action as the first step in a comprehensive reform process that will also include intercarrier compensation.[272] The FPSC's latest comments in this proceeding take the following positions:

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[266] FCC 06J-1, CC Docket No. 96-45, WC Docket No. 05-337, Federal-State Joint Board on Universal Service Seeks Comment on The Merits of Using Auctions to Determine High-Cost Universal Service Support, Public Notice, released August 11, 2006.
[267] FCC 07J-1, CC Docket No. 96-45, WC Docket No. 05-337, Recommended Decision, released May 1, 2007.
[268] FCC 07J-2, CC Docket No. 96-45, WC Docket No. 05-337, Federal-State Joint Board On Universal Service Seeks Comment On Long Term, Comprehensive High-Cost Universal Service Reform, Public Notice, released May 1, 2007.
[269] FCC 07J-4, CC Docket No. 96-45, WC Docket No. 05-337, Recommended Decision, released November 20, 2007.
[270] FCC 08-4, FCC 08-5, and FCC 08-22, CC Docket No. 96-45, WC Docket No. 05-337, Federal-State Joint Board on Universal Service, High-Cost Universal Service Support, Notice of Proposed Rulemaking, released January 29, 2008.
[271] FCC 08-122, CC Docket No. 96-45, WC Docket No. 05-337, Federal-State Joint Board on Universal Service, High-Cost Universal Service Support, Order, released May 1, 2008.
[272] FCC, "Interim Cap Clears Path for Comprehensive Reform," FCC News, released May 2, 2008.

- A carrier's support should be based on its own costs, not on the cost or the support received by the incumbent provider.

- A reverse auction structure should result in a single winner.

- The FCC should limit the initial rounds of auctions to those wire centers that currently receive the most high-cost support and in which there are already more than three ETCs designated.

- In the past, the FPSC has opposed expanding the definition of supported services to include broadband. To the extent that the FCC wishes to expand the definition of supported services to include broadband and mobility services, the FPSC believes that such funds should only be used to deploy network facilities in unserved areas and should not be the source of recurring support.

2. Hawaiian Telcom's High-Cost Support Petition

The FCC released a Public Notice on January 18, 2008, seeking comment on a petition filed by Hawaiian Telcom, Inc. (HT).[273] HT requested a five-year waiver of the FCC's rules to allow it to receive high-cost model support by averaging its line costs on a wire center by wire center basis, instead of on a statewide basis.[274] If granted, HT estimates that it would receive an estimated $6 million additional support per year for five years,[275] thus increasing the size of the high-cost fund to which Florida ratepayers are the largest net contributors.

The FPSC filed reply comments in response to the Public Notice in opposition to HT's petition. While the FPSC acknowledged the conditions faced by HT, the FPSC believes that granting its petition for waiver of the rules is not the appropriate solution. Instead, HT should first have looked to its state commission to address intrastate remedies before looking to the FCC for additional support (i.e., through rates and/or an intrastate universal service mechanism). Furthermore, the FPSC commented that HT, which acquired Verizon Hawaii in 2005, should have been aware of the amount of federal universal service support available to it and the condition of the network it was purchasing. To the extent that HT faces costs that are not accurately represented within the FCC high-cost methodology, the FPSC recommended that the FCC consider the use of more accurate data.

3. Rural Health Care Pilot Program

The FCC established a pilot program as an expansion of the existing rural health care program,[276] which is one component of the federal universal service programs. The goals of this expansion are furthering the benefits of telehealth and telemedicine to areas where the need for

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[273] FCC, "Comment Sought on Hawaiian Telcom, Inc.'s Petition for Waiver of High-Cost Universal Service Support Rules," DA 08-131, WC Docket No. 08-4, Public Notice, released January 18, 2008.
[274] Hawaiian Telcom, Inc., Petition for Waiver of the FCC's Rules, filed December 31, 2007.
[275] Ibid, p. 23.
[276] FCC 06-144, WC Docket No. 02-60, Rural Health Care Support Mechanism, Order, released September 29, 2006.

these benefits is most acute; allowing patients to access critically needed specialists in a variety of practices; and enhancing the health care community's ability to provide a rapid and coordinated response in the event of a national health care crisis. The FCC selected participants for the pilot program on November 19, 2007.[277]

Participants in the new program are eligible for universal service funding to support up to 85 percent of the costs associated with the design, engineering, and construction of their broadband health care networks. These networks may connect to the public Internet or to one of the nation's dedicated Internet backbones.[278] To meet the demands of the approved participants, the FCC's Order notes the pilot program will distribute $139 million in additional rural health care support per year for three years.

While the existing rural health care program is the smallest by far of the four federal universal service programs, Florida ratepayers nevertheless proportionately pay more into this program than is received in the state.[279] The Big Bend Regional Healthcare Information Organization (BBR) submitted the only application from Florida. The FCC awarded BBR $3.2 million per year for 3 years. While this award has the benefit of bringing additional support dollars to Florida, the pilot program also increases the overall size of the federal universal service fund. Florida's proportional contribution to the pilot program exceeds the benefit received by BBR by approximately $6.5 million.[280]

C. Exclusive Provision of Cable and Telecommunications Services in Residential Multiple Dwelling Units (MDUs)

The FCC banned exclusivity clauses for cable company-provided video service in residential multiple dwelling units (MDUs) or other real estate developments in an order released in November 2007 (Video Order).[281] The FCC expanded the definition of MDUs (apartment, cooperative, and condominium buildings) to include gated communities, mobile home parks, garden apartments, and other centrally managed real estate developments. According to the FCC, a growing number of Americans, currently about 30 percent, live in MDUs. The FCC found that competition (including competition for triple play services) and broadband deployment are harmed by exclusive contracts.

The Video Order prohibits the execution of new exclusivity clauses as well as the enforcement of existing exclusivity clauses. However, the Video Order does not apply to exclusive marketing or bulk billing arrangements. As part of the Video Order, the FCC adopted

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[277] FCC 07-198, WC Docket No. 02-60, Rural Health Care Support Mechanism, Order, released November 19, 2007.

[278] Internet2 or National LambdaRail.

[279] FCC 07-198, WC Docket No. 02-60, Rural Health Care Support Mechanism, Order, released November 19, 2007. For 2006, FPSC staff estimates that Florida ratepayers contributed $2.8 million towards the rural health care program, while rural health care providers within the state only received $141,000 in benefits. By comparison, the total size of the rural health care program was $41 million, with $24 million distributed in Alaska.

[280] FCC, "Universal Service Monitoring Report," CC Docket No. 98-202, released December 28, 2007, Table 1.12, <http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-279226A1.pdf>, accessed on May 14, 2008.

[281] FCC 07-189, MB Docket No. 07-51, Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other Real Estate Developments, Order and NPRM, released November 13, 2007.

a Further Notice of Proposed Rulemaking (FNPRM) that sought comment on whether the FCC should take similar action for satellite and private cable providers and whether the FCC should ban exclusive marketing and bulk billing arrangements.[282]

The FCC prohibited exclusive contracts for telecommunications providers in residential MDUs or other real estate developments (Telecom Order) in a companion order released in March 2008.[283] The Telecom Order is designed to provide regulatory parity between telecommunications and cable providers for residential customers.[284] The FCC found that exclusive contracts have impeded competition by blocking access to competitive provisioning of triple play services. As with the Video Order, the Telecom Order does not apply to exclusive marketing or bulk billing arrangements. The effective date of the Telecom Order is July 14, 2008.

D. TELECOMMUNICATIONS RELAY SERVICES

The FCC requested comments on numerous issues, including cost recovery methodology for Video Relay Service (VRS) and IP Relay,[285] in a FNPRM released on July 20, 2006.[286] VRS is a form of Telecommunications Relay Service (TRS) that enables persons with hearing disabilities who use American Sign Language to communicate with voice telephone users through video equipment, rather than through typed text. Video equipment links the VRS user with a TRS operator so that the VRS user and the operator can see and communicate with each other in signed conversation. Because the conversation between the VRS user and the operator flows much more quickly than with a text-based TRS call, VRS has become a popular form of TRS. The FPSC filed comments with the FCC asserting the following points in October 2006:

- VRS and IP Relay go well beyond the functional equivalent of telecommunications services required by the Americans with Disabilities Act and should not be mandated services of TRS.
- If VRS and IP Relay are mandated services of TRS, they should continue to be funded through the Interstate TRS Fund.
- If state funding of intrastate IP Relay calls is mandated, implementation should not occur until the FCC resolves issues relating to the fraudulent use of IP Relay service.
- The jurisdictional separations issues relating to IP-enabled services must be resolved before determining the jurisdiction and associated funding of VRS and IP Relay calls.

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[282] Ibid.
[283] FCC 08-87, WT Docket No. 99-217, Promotion of Competitive Networks in Local Telecommunications Markets, Order, released March 21, 2008.
[284] In 2001, the FCC released an order that prohibited carriers from entering into exclusive telecommunications contracts with owners of commercial multiple tenant environments.
[285] IP Relay allows people who have difficulty hearing or speaking to communicate through an Internet connection using a computer and the Internet, rather than a teletypewriter (TTY) and a telephone.
[286] FCC 06-106, CG Docket No. 03-123, In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Further Notice of Proposed Rulemaking, released July 20, 2006.

- If a decision is made to require states to assume intrastate VRS and IP Relay costs, the FCC must allow time for states to make appropriate legislative changes relating to TRS surcharges.

- Mandating VRS and IP Relay as part of the TRS program may eliminate competition for these services in Florida since, by statute, Florida can have only one relay service provider.

In January 2007, the FCC declared that Internet Protocol captioned telephone relay service (IP CTS) is a type of telecommunications relay service eligible for compensation from the Interstate TRS Fund.[287] Presently, VRS, IP Relay, and IP CTS are all funded through the Interstate TRS Fund. The interstate TRS program is funded from wireline, wireless, and interconnected VoIP service providers based on their interstate and international telecommunications revenues. The FCC has stated that this arrangement is only temporary, and that states will be assuming responsibility for the intrastate costs of VRS, IP Relay, and IP CTS once the FCC adopts jurisdictional separation of costs for these services.

The financial impact to Florida assuming just VRS and IP Relay intrastate costs is substantial. The shifting of costs to the states would cause Florida to be responsible for intrastate IP Relay and VRS costs estimated between $22 and $25 million annually, which would cause Florida's TRS surcharge to increase an estimated $0.12-$0.16 per month per access line. The costs of VRS have been increasing so rapidly that the FCC increased the federal TRS surcharge to obtain an extra $83 million to cover the rising VRS cost for the fund year ending in June 2008.[288] The current Florida TRS surcharge is $0.11 per access line. The Florida TRS surcharge is not assessed on wireless or VoIP service providers.[289] Existing Florida Law caps the TRS surcharge at $0.25 per access line.[290] Because the technology is in its infancy, minutes of use for IP CTS are not yet available.

E. VoIP

The FCC made several determinations impacting the regulatory treatment of VoIP services and providers between June 2006 and December 2007. The FCC extended federal universal service contribution obligations to providers of interconnected VoIP service in June 2006.[291] In March of 2007, the FCC granted the petition of Time Warner Cable for a declaratory ruling affirming that requesting wholesale telecommunications carriers are entitled to obtain

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[287] FCC 06-182, CG Docket No. 03-123, In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Internet-based Captioned Telephone Service, Declaratory Ruling, released January 11, 2007.
[288] FCC 08-303, CG Docket No. 03-123, In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order, released February 6, 2008.
[289] Section 427.704 (4)(a)(1), F.S.
[290] Section 427.704 (4)(a)(3)(b), F.S.
[291] Mark Wigfield, "FCC Updates Approach for Assessing Contributions to the Federal Universal Service Fund," FCC News Release, June 21, 2007, <http://www.fcc.gov/voip/>, accessed on May 29, 2008.

interconnection with ILECs to provide wholesale telecommunications services to other service providers (including VoIP-based providers).[292]

Other areas of FCC activity relating to VoIP services and providers included customer proprietary network information, disability access requirements, contribution to the interstate TRS fund, 711 access, and number portability. The FCC extended all customer proprietary network information regulations to VoIP service providers in April 2007.[293] In May of 2007, the FCC extended disability access requirements, required contribution to the Interstate TRS Fund, and obligated VoIP service providers to offer 711 access.[294] The FCC clarified in October 2007, that the obligation to provide local number portability extends to interconnected VoIP providers and the telephone carriers that obtain numbers from them.[295]

Finally, the 2008 Congress passed legislation (H.R. 3403) relating to E911 access for VoIP service. The bill requires VoIP providers to deliver 911 calls to the appropriate public safety answering point, along with caller-location information, which the FCC directed VoIP providers to do three years ago. The bill would give VoIP providers the same right to access 911 facilities (typically controlled by ILECs) that commercial mobile radio service providers have. The bill also would extend to VoIP providers and public safety officials liability protection for carrying VoIP 911 calls comparable to that granted for wireless 911 calls.

The bill would also require the National Telecommunications and Information Administration to report to Congress within 270 days of the measure's enactment on "a national plan for migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen-activated emergency communications and improving information sharing among all emergency response entities." The President signed the signed the bill into law on July 23, 2008.[296]

F. RETENTION MARKETING COMPLAINT

Bright House Networks, Comcast, and Time Warner Cable (cable companies) filed a joint complaint in February 2008, relating to the retention marketing practices of Verizon.[297] These cable companies alleged that Verizon uses the request to port a customer's telephone

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[292] David Fiske, "Time Warner Cable Request for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection Under Section 251 of the Communications Act of 1934, as Amended, to Provide Wholesale Telecommunications Services to VoIP Providers," Chairman Kevin J. Martin press statement, March 1, 2007, <http://www.fcc.gov/voip/>, accessed on May 29, 2008.

[293] Mark Wigfield, "FCC Strengthens Privacy Rules to Prevent Pretexting," FCC News Release, April 2, 2007, <http://www.fcc.gov/voip/>, accessed on May 29, 2008.

[294] Rosemary Kimball, "Disability Access Requirements Extended to VOIP Services," FCC News Release, May 31, 2007, <http://www.fcc.gov/voip/>, accessed on May 29, 2008.

[295] Mark Wigfield, "FCC Expands Local Number Portability to VoIP," FCC News Release, October 31, 2007, <http://www.fcc.gov/voip/>, accessed on May 29, 2008.

[296] "President Bush Signs Bipartisan VoIP/Public Safety Bill Into Law," Press Release, U.S. Senate Committee on Science, Commerce and Transportation, July 24, 2008, <http://commerce.senate.gov/public/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=37ca2327-90a4-41c5-a55d-3c80a5f32535&Month=7&Year=2008>, accessed on July 25, 2008.

[297] Formal Complaint of Bright House Networks, Comcast, and Time Warner Cable before the FCC, File No. EB-08-MD-002, filed February 11, 2008.

number from Verizon as a trigger to initiate marketing efforts to keep the customer. While the FCC's Enforcement Bureau recommended denying, in part, the complaint of the cable companies,[298] the FCC concluded that Verizon had violated customer privacy under Section 222(b) of the Act by engaging in retention marketing.[299] The FCC's order requires Verizon to terminate its retention marketing activities. Verizon can still attempt to win back customers after they leave; however, it may not contact the customer in order to keep them after it has received a number-porting request. Verizon has asked U.S. Court of Appeals for the D.C. Circuit to issue a stay. The FCC's decision will remain in effect during the appeal, unless the court grants a stay.

G. BROADBAND

On June 12, 2008, the FCC released its Fifth Report on the deployment of advanced telecommunications capabilities.[300] Section 706 of the 1996 Act directs the FCC to encourage the deployment of advanced telecommunications capability to all Americans by using measures that "promote competition in the local telecommunications market." Further, it requires the FCC to conduct a regular inquiry to determine "whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion." The FCC concluded in this report that advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. The FCC found it appropriate to evaluate broadband deployment based on the migration of customers and services to higher speed tiers. In light of the continuing evolution in technology and consumer demand for advanced telecommunications capability, the FCC concluded that it must evolve its data collection efforts. In order to allow it to gather more detailed information, the FCC is adding additional broadband speed tiers. These speed tiers will provide more detailed information at both the state and national levels.

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[298] FCC, DA 08-860, File No. EB-08-MD-002, Bright House Networks, LLC, et al., Complainants, v. Verizon California, Inc., et al., Defendants, Recommended Decision, released April 11, 2008.

[299] FCC 08-159, File No. EB-08-MD-002, Bright house Networks, LLC, et al., Complainants, v. Verizon California, Inc., et al., Defendants, Memorandum Opinion and Order, released June 23, 2008.

[300] FCC 08-88, GN Docket No. 07-45, Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, Fifth Report, released June 12, 2008.

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APPENDIX A. LIST OF CERTIFICATED CLECS AS OF 12/31/07

**Indicates that the company did not respond to the Commission's data request.

1-800-RECONEX, Inc. d/b/a USTEL
360networks (USA) inc.
A.R.C. Networks, Inc. d/b/a InfoHighway
AboveNet Communications, Inc.
Access Communications, LLC.
Access Integrated Networks, Inc.
Access One, Inc.
Access Point, Inc.
AccuTel of Texas, Inc.
ACN Communication Services, Inc.
Actel Wireless, 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.
Alpha Fiber Inc.
Alpha Phone Inc.
Alternative Phone, Inc.
American Fiber Network, Inc.
American Fiber Systems, Inc.
American Phone Services Corp.
American Telecharge, Inc.
American Telephone Company LLC
America's Choice Communications Corp
Americatel Corporation
AmeriMex Communications Corp.
ANEW Broadband, Inc. d/b/a INSTANTEL PHONE SERVICE
Astro Tel, Inc.
**Astrocom Corporation
AT&T Communications of the Southern States, LLC d/b/a AT&T
Atlantic.Net Broadband, Inc.
ATN, Inc. d/b/a AMTEL NETWORK, INC.
Available Telecom Services, Inc.
Backbone Communications Inc.
Baldwin County Internet/DSSI Service, L.L.C.
Bandwidth.com CLEC, LLC
BCN Telecom, Inc.
Beauty Town, Inc. d/b/a Anns Communication
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 Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch
BLC Management LLC d/b/a Angles Communication Solutions
Bright House Networks Information Services (Florida), LLC
Broadband Communities of Florida, Inc.
Broadstar Communications, LLC
Broadstar, LLC d/b/a PrimeCast
Broadview Networks, Inc.
Broadwing Communications, LLC
Brydels Communications, LLC d/b/a AMIGOS - Tu Compania de Telefonos
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
Callis Communications, Inc.
Campus Communications Group, Inc.
CAT Communications International, Inc.
CBB Carrier Services, Inc.
Cbeyond Communications, LLC
Centennial Florida Switch Corp.
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
City of Tallahassee

APPENDIX A. LIST OF CERTIFICATED CLECS AS OF 12/31/07

Cleartel Telecommunications, Inc. d/b/a Now Communications, also d/b/a VeraNet Solutions
CloseCall America, Inc
CM Tel (USA) LLC
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
Communication Lines, Inc.
Communication Technology, Inc.
Communications Xchange, LLC
Computer Network Technology Corporation
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.
Connect Paging, Inc. d/b/a Get A Phone
Cordia Communications Corp.
CoreTel Florida, Inc. d/b/a CoreTel
Cost Plus Communications, LLC
Covista, Inc.
Cox Florida Telcom, L.P. d/b/a Cox Communications
Credit Loans, Inc. d/b/a Lone Star State Telephone Co.
CTC Communications Corp. d/b/a One Communications
**Cubic Communications, LLC
Custom Network Solutions, Inc.
Cypress Communications Operating Company, LLC
Dedicated Fiber Systems, Inc.
Deland Actel, Inc.
DeltaCom, Inc.
DG-TEC, LLC
DialTek, LLC d/b/a DTK Telecommunications, LLC
DialTone & More, Inc.
Dialtone Telecom, LLC
DIECA Communications, Inc. d/b/a Covad Communications Company
Digital Express, Inc.
DPI-Teleconnect, L.L.C.
DRS Training & Control Systems, Inc.
DSL Internet Corporation d/b/a DSLi
DSLnet Communications, LLC
DukeNet Communications, LLC
Eagle Communications, Inc. d/b/a Eagle Telco, Inc.
Easy Telephone Services Company
Economic Telecom, Inc.
Elantic Telecom, Inc.
ElectroNet Intermedia Consulting, Inc.
Embarq Communications, Inc.
ENA Services, LLC
Enhanced Communications Network, Inc. d/b/a Asian American Association
**e-Path Communications, Inc.
Ernest Communications, Inc.
**Esodus Communications, Inc. d/b/a Excelink Communications d/b/a Instatone
EveryCall Communications, Inc.
Excel Pager, Cellular, and Home Phone, Inc.
Excella Communications Inc.
Expedient Carrier Services, LLC
Express Phone Service, Inc.
ExteNet Systems, Inc.
**E-Z Family Connection, Corp.
Fast Phones, Inc. of Alabama
FDN, LLC d/b/a FDN Communications
First Choice Technology, Inc.
First Communications, LLC
FL - CLEC LLC
FLATEL, Inc. d/b/a Florida Telephone Company d/b/a Oscatel d/b/a Telephone USA d/b/a Global Telecom
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.

APPENDIX A. LIST OF CERTIFICATED CLECS AS OF 12/31/07

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
Georgia Public Web, Inc.
Global Connection, Inc of America
Global Crossing Local Services, Inc.
Global Crossing Telemanagement, Inc.
Global NAPS, Inc.
Global Response Corporation
Globalcom Inc. d/b/a GCI Globalcom Inc.
Globaltron Communications Corporation
Globetel, Inc.
**Grande Communications Networks, Inc.
Granite Telecommunications, LLC
Great American Telephone, Inc.
GTC Communications, Inc.
Harbor Communications, LLC
Hayes E-Government Resources, Inc.
Home Town Telephone, LLC
Hotline, Inc. d/b/a Hotline Telephone Service, Inc.
Hotwire Communications, Ltd.
IDS Telcom Corp. d/b/a Cleartel Communications
IDT America, Corp. d/b/a IDT
Image Access, Inc. d/b/a NewPhone, Inc.
Infotelecom, LLC
Intellicall Operator Services, Inc. d/b/a ILD
Intelligence Network Online, Inc.
Interactive Services Network, Inc. d/b/a ISN Telcom
InteraTel, LLC d/b/a InteraTone
InterGlobe Communications, Inc.
InterLink Global,Corp.
Inter-Tel NetSolutions, Inc.
Intrado Communications Inc.
J C Telecommunication Co., LLC
Kenarl Inc. d/b/a Lake Wellington Professional Centre
**KG Communications, LLC d/b/a KG Communications
Kissimmee Utility Authority
KMC Data LLC
Knology of Florida, Inc.
**Laser Telecom, LLC
LecStar Telecom, Inc.
Level 3 Communications, LLC
Lightyear Network Solutions, LLC
Litestream Holdings, LLC
Looking Glass Networks, Inc.
LPGA International Communications, LLC
Madison River Communications, LLC
Marco Island Cable, Inc.
Maryland TeleCommunication Systems, Inc.
Matrix Telecom, Inc. d/b/a Matrix Business Technologies
MCC Telephony of Florida, Inc.
McGraw Communications, Inc.
MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services
McLeodUSA Telecommunications Services, Inc.
Meridian TeleSystems, Inc.
MET Communications, Inc.
Metropolitan Telecommunications of Florida, Inc. d/b/a MetTel
Midwestern Telecommunications, Incorporated
**Minority Telecom Resalers, Inc. d/b/a North Dade Telecom
**MOA Business Corporation d/b/a ZStar Communications
Momentum Telecom, Inc.
MULTIPHONE LATIN AMERICA, INC.
Myatel Corporation
**National Telecom & Broadband Services, LLC
NationsLine Florida, Inc.
Nationwide Computer Systems, Inc. d/b/a Desoto.Net and d/b/a Greenwood.Net
Navigator Telecommunications, LLC
Net One International, Inc.
Network Operator Services, Inc.
Network PTS, Inc.
Network Telephone Corporation d/b/a Cavalier Telephone d/b/a Cavalier Business Communications
NetworkIP, L.L.C. d/b/a Elite Telecom
Neutral Tandem-Florida, LLC

APPENDIX A. LIST OF CERTIFICATED CLECS AS OF 12/31/07

New Edge Network, Inc. d/b/a New Edge Networks
New Horizons Communications Corp.
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, 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
Novus Communications, Inc.
NuVox Communications, Inc.
One Voice Communications, Inc.
OnFiber Carrier Services, Inc.
ONS-Telecom, LLC
Optical Telecommunications, Inc. d/b/a HContol Corporation d/b/a SH Services LLC
Optivon, Inc.
Orlando Telephone Company, Inc.
Pac-West Telecomm, Inc.
PaeTec Communications, Inc.
Payless Telephone Company, Inc.
Peerless Network of Florida, LLC
Pelzer Communications Corporation
Phone Club Corporation
Phone XP, L.L.C.
Pilgrim Telephone, Inc.
PNG Telecommunications, Inc.
PowerNet Global Communications d/b/a CrossConnect
Primus Telecommunications, Inc.
PriStar Communications L.L.C.
ProfitLab, Inc.
Progress Telecom, LLC
Protection Plus of the Florida Keys, Inc. d/b/a ENGAGE COMMUNICATIONS
Public Telephone Network, Inc.
**Quality Telephone Inc.
QuantumShift Communications, Inc.
Qwest Communications Corporation
**Rebound Enterprises, Inc. d/b/a REI Communications
Reliant Communications, Inc.
ReTel Communications, Inc.
Rightlink USA, Inc.
Ring Connection, Inc.
RNK Inc. d/b/a RNK Communications Inc.
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
Security Advisors, Inc. d/b/a SecureCOMM
Servi Express Caracol d/b/a Telefonica Express
Shands Teaching Hospital and Clinics, Inc.
SkyWay Telecom, Inc.
Smart City Networks
Smart City Solutions, LLC d/b/a Smart City Communications
Smart Network Solutions Communications Corp
SNC Communications, LLC
Southeastern Services, Inc.
Southern Light, LLC
Southern Telecom, Inc. d/b/a Southern Telecom of America, Inc.
Spectrotel, Inc.
Sprint Communications Company Limited Partnership
Sterling Telecom Inc.
STS Telecom, LLC
Sunesys, LLC
Sun-Tel USA, Inc.
Super-Tel.Com, Inc.
Supra Telecommunications and Information Systems, Inc.
Swiftel, LLC
Symtelco, LLC
Synergy Networks, Inc.
Syniverse Technologies, Inc.

APPENDIX A. LIST OF CERTIFICATED CLECS AS OF 12/31/07

T3 Communications, LLC 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
Talk For Less, Inc.
Tallahassee Community College
Tallahassee Telephone Exchange, Inc.
TCG South Florida
**Tel West Communications, LLC
**Telcentrex, LLC
TelCove Investment, LLC
TelCove of Florida, Inc.
TelCove of Jacksonville, Inc.
**Tele Circuit Network Corporation
Telecom Management, Inc. d/b/a Pioneer Telephone
Teledata Solutions, Inc. d/b/a TDSI, INC.
Telepak Networks, Inc.
Telephone One Inc.
Telovations Inc.
Telrite Corporation
Telscape Communications, Inc.
Telsys, Inc.
Tennessee Telephone Service, LLC d/b/a Freedom Communications USA, LLC
The Boeing Company
The Hamilton Telephone Company d/b/a Hamilton Telecommunications
The Other Phone Company, Inc. d/b/a Cavalier Telephone d/b/a Cavalier Business Communications
The Sunshine State Telephone Company, L.L.P. d/b/a Sunshine State Total Communications
The Ultimate Connection, L.C. d/b/a DayStar Communications
Think 12 Corporation d/b/a Hello Depot
Time Warner Telecom of Florida, L.P.
Touch 1 Communications, Inc.
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
Trinsic Communications, Inc.
**Tristar Communications Corp.
**TYBE COMMUNICATIONS INC.
U.S. Metropolitan Telecom, LLC d/b/a Truwave Networks LLC
UCN, Inc.
Unicom Communications, LLC
Unitycomm, LLC
Universal Telecom, Inc.
US LEC of Florida Inc. d/b/a PAETEC Business Services
US South Communications, Inc.
US Telesis, Inc.
Utility Board of the City of Key West d/b/a Keys Energy Services
Utility USA, Inc. d/b/a Vizon Telecom
VBNet, Incorporated
Verizon Avenue Corp. d/b/a Verizon Avenue
Verizon Select Services Inc.
Vertex Communications, Inc. d/b/a Zenith Communications of Florida, Inc.
VGM International, Inc.
Vilaire Communications, Inc.
Vistavox of FL, Inc.
VoTTs Communications, LLC
**Vycera Communications, Inc.
Wholesale Carrier Services, Inc.
WilTel Local Network, LLC
**WinSonic Digital Media Group, Ltd. Corp.
Wireless One Network Management, L.P.
World-Link Solutions, Inc. d/b/a WL Solutions, Inc.
XFone USA, Inc.
XO Communications Services, Inc.
Ygnition Networks, Inc.
Yipes Enterprise Services, Inc.
YMax Communications Corp.
Zone Telecom, Inc.

APPENDIX B. CLECS PROVIDING SERVICE IN FLORIDA			
CLEC	**Resale**	**Local Platform**	**Switch-Based**
1-800-RECONEX, Inc. d/b/a USTEL	X	X	
Access Communications, LLC.	X	X	X
Access Integrated Networks, Inc.	X	X	
Access One, Inc.	X		
ACN Communication Services, Inc.		X	
Advantage Group of Florida Communications, L.L.C.	X	X	X
Affordable Phone Services, Inc. d/b/a High Tech Communication	X		
Airespring, Inc.		X	
Alternative Phone, Inc.	X		
American Fiber Network, Inc.	X	X	
American Telephone Company LLC	X		
America's Choice Communications Corp	X		
ANEW Broadband, Inc. d/b/a INSTANTEL PHONE SERVICE		X	
Astro Tel, Inc.	X		X
Benchmark Communications, LLC d/b/a Com One	X		
BetterWorld Telecom LLC d/b/a BetterWorld Telecom	X		
Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch	X	X	
BLC Management LLC d/b/a Angles Communication Solutions	X		
Broadstar, LLC d/b/a PrimeCast		X	
Budget PrePay, Inc. d/b/a Budget Phone	X	X	
BullsEye Telecom, Inc.		X	
Business Telecom, Inc. d/b/a BTI	X	X	X
City of Daytona Beach			X
Cleartel Telecommunications, Inc. d/b/a Now Communications, also d/b/a VeraNet Solutions	X	X	X
CloseCall America, Inc	X		
Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone	X	X	
Comtech21, LLC			
Comtel Telcom Assets LP d/b/a VarTec Telecom		X	
Covista, Inc.	X		
Custom Network Solutions, Inc.	X		
Cypress Communications Operating Company, LLC			X
DeltaCom, Inc.	X	X	X
Dialtone Telecom, LLC	X		
DPI-Teleconnect, L.L.C.	X	X	
DSL Internet Corporation d/b/a DSLi	X	X	X
Easy Telephone Services Company	X		
Embarq Communications, Inc.			X
Ernest Communications, Inc.	X	X	
EveryCall Communications, Inc.	X	X	
Express Phone Service, Inc.	X		

APPENDIX B. CLECS PROVIDING SERVICE IN FLORIDA			
CLEC	**Resale**	**Local Platform**	**Switch-Based**
First Communications, LLC	X	X	
FLATEL, Inc. d/b/a Florida Telephone Company d/b/a Oscatel d/b/a Telephone USA d/b/a Global Telecom	X		
Florida Multi-Media Services, Inc. d/b/a Florida Multi Media			X
Florida Telephone Services, LLC	X	X	
France Telecom Corporate Solutions L.L.C.	X		
Ganoco, Inc. d/b/a American Dial Tone	X	X	
Global Connection, Inc of America	X		
Global Crossing Local Services, Inc.	X	X	
Global Crossing Telemanagement, Inc.	X	X	
Global Response Corporation	X		
Granite Telecommunications, LLC	X	X	
Harbor Communications, LLC	X		X
Home Town Telephone, LLC			X
IDS Telcom Corp. d/b/a Cleartel Communications	X	X	X
Image Access, Inc. d/b/a NewPhone, Inc.	X		
Interactive Services Network, Inc. d/b/a ISN Telcom		X	
InterGlobe Communications, Inc.	X		
Inter-Tel NetSolutions, Inc.	X		
Kenarl Inc. d/b/a Lake Wellington Professional Centre			X
Knology of Florida, Inc.			X
Lightyear Network Solutions, LLC	X	X	
Matrix Telecom, Inc. d/b/a Matrix Business Technologies	X	X	
MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services		X	X
MET Communications, Inc.	X		
Metropolitan Telecommunications of Florida, Inc. d/b/a MetTel	X	X	
Midwestern Telecommunications, Incorporated	X	X	
Momentum Telecom, Inc.	X	X	
Navigator Telecommunications, LLC	X		
Network PTS, Inc.		X	
Network Telephone Corporation d/b/a Cavalier Telephone d/b/a Cavalier Business Communications		X	X
Nexus Communications, Inc. d/b/a Nexus Communications TSI, Inc.	X		
nii Communications, Ltd.		X	
Norlight, Inc. d/b/a Cinergy Communications		X	
North American Telecommunications Corporation	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.		X	X
One Voice Communications, Inc.	X		
Orlando Telephone Company, Inc.			X

APPENDIX B. CLECS PROVIDING SERVICE IN FLORIDA			
CLEC	**Resale**	**Local Platform**	**Switch-Based**
PaeTec Communications, Inc.	X	X	
PNG Telecommunications, Inc. d/b/a PowerNet Global Communications d/b/a CrossConnect	X		
QuantumShift Communications, Inc.	X		
Qwest Communications Corporation	X		
ReTel Communications, Inc.	X		
Rightlink USA, Inc.	X	X	
Ring Connection, Inc.	X		
RNK Inc. d/b/a RNK Communications Inc.			X
Saturn Telecommunication Services Inc. d/b/a STS Telecom	X	X	X
SBC Long Distance, LLC d/b/a SBC Long Distance d/b/a AT&T Long Distance	X		X
Servi Express Caracol d/b/a Telefonica Express	X		
Smart City Solutions, LLC d/b/a Smart City Communications		X	
Sprint Communications Company Limited Partnership			X
Sun-Tel USA, Inc.	X	X	
Supra Telecommunications and Information Systems, Inc.	X	X	X
T3 Communications, LLC 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	X	
Talk For Less, Inc.	X		
TCG South Florida	X	X	
TelCove of Jacksonville, Inc.	X		X
Tennessee Telephone Service, LLC d/b/a Freedom Communications USA, LLC	X	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
Think 12 Corporation d/b/a Hello Depot	X		
Time Warner Telecom of Florida, L.P.	X	X	
Universal Telecom, Inc.	X		
Vilaire Communications, Inc.	X		
XO Communications Services, Inc.	X	X	X
Zone Telecom, Inc.	X	X	

APPENDIX C. NUMBER OF CLEC PROVIDERS IN EACH EXCHANGE				
	CLEC Residential Providers		CLEC Business Providers	
Exchange	(Jun-06)	(Dec-07)	(Jun-06)	(Dec-07)
Alachua	3	4	6	2
Alford	5	5	11	4
Alligator Point	0	0	1	1
Altha	0	0	2	0
Apalachicola	0	0	2	1
Apopka	20	10	37	17
Arcadia	11	11	23	11
Archer	11	10	21	6
Astor	7	3	12	5
Avon Park	13	11	24	13
Baker	3	3	11	4
Baldwin	15	9	22	8
Bartow	15	6	27	12
Belle Glade	25	22	45	14
Belleview	19	11	25	10
Beverly Hills	11	7	23	8
Blountstown	2	2	3	0
Boca Grande	3	1	3	3
Boca Raton	47	34	68	33
Bonifay	8	9	15	7
Bonita Springs	18	8	32	15
Bowling Green	5	3	9	5
Boynton Beach	37	30	65	29
Bradenton	20	9	39	18
Branford	1	4	6	1
Bristol	0	0	2	0
Bronson	12	17	29	6
Brooker	0	1	5	0
Brooksville	27	20	48	18
Bunnell	19	13	37	11
Bushnell	10	12	19	8
Callahan	0	1	3	1
Cantonment	19	13	24	12
Cape Coral	18	7	32	13
Cape Haze	8	1	14	9
Carrabelle	0	0	2	0
Cedar Key	10	3	10	4
Celebration	1	1	5	5
Century	4	8	4	2
Chattahoochee	1	2	3	0
Cherry Lake	3	6	8	3
Chiefland	18	13	28	11
Chipley	20	15	24	10

APPENDIX C. NUMBER OF CLEC PROVIDERS IN EACH EXCHANGE				
Exchange	CLEC Residential Providers (Jun-06)	CLEC Residential Providers (Dec-07)	CLEC Business Providers (Jun-06)	CLEC Business Providers (Dec-07)
Citra	0	2	5	1
Clearwater	28	17	48	28
Clermont	24	8	30	15
Clewiston	10	8	22	9
Cocoa	42	26	60	26
Cocoa Beach	27	16	35	17
Coral Springs	53	31	85	26
Cottondale	6	8	11	3
Crawfordville	7	4	12	7
Crescent City	1	3	7	1
Crestview	11	11	24	10
Cross City	10	7	20	5
Crystal River	13	5	18	11
Dade City	15	10	26	9
Daytona Beach	49	30	66	30
DeBary	24	18	46	16
Deerfield Beach	39	25	65	29
DeFuniak Springs	12	7	28	7
Deland	33	17	50	22
DeLeon Springs	16	9	17	7
Delray Beach	46	31	67	32
Destin	14	7	25	11
Dowling Park	0	1	2	0
Dunnellon	21	23	34	13
East Orange	21	10	27	11
East Point	1	0	2	0
Eau Gallie	37	24	51	23
Englewood	16	3	25	13
Eustis	16	12	32	9
Everglades	5	0	1	4
Fernandina Beach	25	25	47	16
Flagler Beach	22	10	24	10
Florahome	1	2	3	1
Florida Sheriffs' Boys Ranch	0	3	2	0
Forest	7	5	13	5
Freeport	7	3	10	4
Frostproof	9	5	17	9
Ft. Lauderdale	69	42	92	45
Ft. Meade	6	4	13	6
Ft. Myers	26	17	45	18
Ft. Myers Beach	10	5	14	8
Ft. Pierce	36	26	60	24
Ft. Walton Beach	19	15	33	14

APPENDIX C. NUMBER OF CLEC PROVIDERS IN EACH EXCHANGE				
Exchange	CLEC Residential Providers		CLEC Business Providers	
	(Jun-06)	(Dec-07)	(Jun-06)	(Dec-07)
Ft. White	2	1	5	1
Gainesville	37	33	66	24
Geneva	3	6	7	6
Glendale	1	2	4	1
Graceville	17	14	26	9
Grand Ridge	6	8	11	4
Green Cove Springs	21	18	36	12
Greensboro	0	1	2	0
Greenville	5	6	11	4
Greenwood	3	6	8	2
Gretna	0	1	1	0
Groveland	11	6	23	8
Gulf Breeze	27	15	31	15
Haines City	20	12	33	14
Hastings	1	3	5	3
Havana	16	17	34	8
Hawthorne	12	15	29	5
High Springs	2	2	7	2
Hilliard	0	2	2	1
Hobe Sound	25	15	28	18
Holley-Navarre	22	13	29	12
Hollywood	60	35	87	36
Homestead	36	31	70	27
Homosassa	11	7	21	10
Hosford	0	0	1	0
Howey-in-the-Hills	4	2	11	2
Hudson	17	8	33	14
Immokalee	13	7	21	12
Indian Lake	3	0	5	3
Indiantown	2	1	2	2
Interlachen	0	1	6	3
Inverness	14	11	26	8
Jacksonville	56	38	83	36
Jacksonville Beach	11	22	14	16
Jasper	0	2	2	3
Jay	11	12	15	6
Jennings	1	1	4	0
Jensen Beach	23	17	33	20
Julington	2	2	4	2
Jupiter	39	25	50	26
Keaton Beach	0	0	1	0
Kenansville	3	1	5	4
Keys	36	25	52	28

APPENDIX C. NUMBER OF CLEC PROVIDERS IN EACH EXCHANGE				
	CLEC Residential Providers		CLEC Business Providers	
Exchange	(Jun-06)	(Dec-07)	(Jun-06)	(Dec-07)
Keystone Heights	11	12	32	8
Kingsley Lake	2	0	1	1
Kissimmee	25	16	46	20
La Belle	10	8	19	10
Lady Lake	15	8	26	9
Lake Buena Vista	0	1	4	1
Lake Butler	0	2	4	2
Lake City	29	21	42	21
Lake Placid	11	7	22	10
Lake Wales	15	8	28	12
Lakeland	20	13	42	19
Laurel Hill	0	0	0	0
Lawtey	4	6	12	3
Lee	6	5	11	3
Leesburg	24	12	36	12
Lehigh Acres	15	11	29	14
Live Oak	0	3	4	3
Luraville	0	2	3	0
Lynn Haven	20	16	28	12
Macclenny	1	0	3	2
Madison	12	8	19	9
Malone	2	5	7	2
Marco Island	11	2	14	10
Marianna	14	10	23	11
Maxville	12	11	18	5
Mayo	0	2	3	2
McIntosh	0	4	7	1
Melbourne	41	33	59	26
Melrose	1	2	4	1
Miami	68	41	97	50
Micanopy	2	6	6	3
Middleburg	19	18	42	14
Milton	26	15	34	12
Molino	2	0	1	0
Monticello	10	10	21	7
Montverde	4	1	14	1
Moore Haven	8	7	16	7
Mount Dora	18	11	29	14
Mulberry	11	8	21	8
Munson	1	4	2	0
Myakka	5	3	7	4
Naples	25	14	37	19
New Port Richey	22	8	31	18

APPENDIX C. NUMBER OF CLEC PROVIDERS IN EACH EXCHANGE				
	CLEC Residential Providers		CLEC Business Providers	
Exchange	(Jun-06)	(Dec-07)	(Jun-06)	(Dec-07)
New Smyrna Beach	33	17	44	22
Newberry	15	19	32	7
North Cape Coral	1	7	9	16
North Dade	44	35	76	30
North Ft Myers	16	9	26	14
North Naples	17	6	26	13
North Port	15	6	28	10
Oak Hill	15	7	19	7
Ocala	23	19	44	14
Ocklawaha	5	2	15	4
Okeechobee	13	10	21	12
Old Town	11	14	21	6
Orange City	20	9	28	13
Orange Park	34	26	57	22
Orange Springs	0	2	4	0
Orlando	55	42	91	45
Oviedo	32	22	43	23
Pace	23	13	30	11
Pahokee	18	20	38	11
Palatka	27	16	42	15
Palm Coast	25	15	41	20
Palmetto	19	4	24	15
Panacea	3	3	4	2
Panama City	37	26	52	22
Panama City Beach	28	19	40	18
Paxton	0	1	3	0
Pensacola	35	31	66	27
Perrine	44	28	71	30
Perry	1	1	4	1
Pierson	15	10	27	7
Pine Island	5	3	14	5
Plant City	18	9	33	15
Polk City	8	5	17	9
Pomona Park	9	9	21	4
Pompano Beach	11	38	19	35
Ponce de Leon	6	7	11	3
Ponte Vedra Beach	22	15	29	13
Port Charlotte	19	9	31	14
Port St Joe	0	1	2	1
Port St. Lucie	34	31	66	28
Punta Gorda	15	5	22	12
Quincy	1	2	4	0
Raiford	0	1	2	0

APPENDIX C. NUMBER OF CLEC PROVIDERS IN EACH EXCHANGE				
Exchange	CLEC Residential Providers		CLEC Business Providers	
	(Jun-06)	(Dec-07)	(Jun-06)	(Dec-07)
Reedy Creek	2	3	10	16
Reynolds Hill	1	5	12	1
Salt Springs	4	2	5	3
San Antonio	10	4	14	6
Sanderson	1	0	2	0
Sanford	34	34	64	28
Sanibel-Captiva Island	6	0	8	7
Santa Rosa Beach	10	4	14	8
Sarasota	24	16	42	21
Seagrove Beach	11	4	12	6
Sebastian	29	23	40	19
Sebring	17	10	26	13
Shalimar	11	5	22	10
Silver Springs Shores	14	8	23	6
Sneads	5	7	10	4
Sopchoppy	2	3	6	3
Spring Lake Hills	7	5	14	5
St. Augustine	37	8	56	5
St. Cloud	21	11	31	14
St. Johns	7	24	10	19
St. Marks	3	2	2	2
St. Petersburg	27	14	46	24
Starke	11	12	20	8
Stuart	38	26	53	29
Sunny Hills	7	8	14	5
Tallahassee	24	20	48	19
Tampa	35	19	55	31
Tarpon Springs	18	4	35	18
Tavares	16	10	26	12
The Beaches	0	0	1	0
Titusville	35	25	48	25
Trenton	12	16	26	10
Trilacoochee	5	6	12	4
Tyndall AFB	0	0	2	0
Umatilla	9	9	19	5
Valparaiso	14	7	22	12
Venice	21	9	35	17
Vernon	9	12	17	4
Vero Beach	37	30	59	26
Waldo	0	1	6	1
Walnut Hill	1	0	0	0
Wauchula	9	9	18	9
Weekiwachee Springs	31	22	49	19

APPENDIX C. NUMBER OF CLEC PROVIDERS IN EACH EXCHANGE				
Exchange	CLEC Residential Providers (Jun-06)	CLEC Residential Providers (Dec-07)	CLEC Business Providers (Jun-06)	CLEC Business Providers (Dec-07)
Weirsdale	1	6	2	3
Welaka	12	11	19	5
Wellborn	0	2	4	0
West Kissimmee	4	13	11	16
West Palm Beach	59	44	92	40
Westville	4	4	7	3
Wewahitchka	0	0	1	0
White Springs	0	3	5	2
Wildwood	13	9	21	8
Williston	10	11	20	9
Windermere	13	6	19	9
Winter Garden	21	15	37	19
Winter Haven	23	12	39	17
Winter Park	24	19	49	20
Yankeetown	14	7	15	6
Youngstown-Fountain	9	10	25	6
Yulee	17	12	32	7
Zephyr Hills	19	6	29	12
Zolfo Springs	7	5	9	4

APPENDIX D. CERTIFICATED FLORIDA COMPANIES PROVIDING VoIP SERVICE*	
Company Name	**Company also provides local wireline services as displayed in Appendix B**
Access Point, Inc.	
Advantage Group of Florida Communications, L.L.C.	X
ANEW Broadband, Inc. d/b/a INSTANTEL PHONE SERVICE	X
Astro Tel, Inc.	X
Broadstar, LLC d/b/a PrimeCast	X
Callis Communications, Inc.	
CommPartners, LLC	
Communications Xchange, LLC	
Comtech21, LLC	X
Comtel Telcom Assets LP d/b/a VarTec Telecom	X
Cox Florida Telcom, L.P. d/b/a Cox Communications	
Cypress Communications Operating Company, LLC	X
DIECA Communications, Inc. d/b/a Covad Communications Company	
DSL Internet Corporation d/b/a DSLi	X
Global Crossing Local Services, Inc.	X
Harbor Communications, LLC	X
Hotwire Communications, Ltd.	
Interactive Services Network, Inc. d/b/a ISN Telcom	X
Knology of Florida, Inc.	X
Lightyear Network Solutions, LLC	X
MCC Telephony of Florida, Inc.	
North American Telecommunications Corporation	X
Optical Telecommunications, Inc. d/b/a HContol Corporation d/b/a SH Services LLC	
PaeTec Communications, Inc.	X
Qwest Communications Corporation	X
RNK Inc. d/b/a RNK Communications Inc.	X
Saturn Telecommunication Services Inc. d/b/a STS Telecom	X
TelCove of Jacksonville, Inc.	X
Telovations Inc.	
Verizon Florida LLC	X

* As reflected in responses to the FPSC 2008 Local Competition Data Request

APPENDIX E. SUMMARY OF COMPLAINTS FILED BY CLECS						
CLEC	**ILEC**	**Date Opened**	**Complaint or Docket Number**	**Description**	**Date Closed**	**Resolution**
STS Telecom	BellSouth	06/05/06	060435-TP	Complaint against BellSouth to require BellSouth to honor commitments and to prevent anticompetitive and monopolistic behavior.	07/31/06	STS Telecom filed a Notice of Voluntary Dismissal and the docket was closed.
Litestream Holdings, LLC.	BellSouth	10/17/06	060684-TP	Complaint against BellSouth for refusal to provide telephone service to new development.	07/31/07	Complaint dismissed without prejudice by Order PSC-07-0614-FOF-TP.
Eagle Telecom, Inc.	Verizon	02/20/07	727523T	Complaint against Verizon involving delay in service connection.	10/25/07	Verizon installed service, which was delayed due to issues of new development.
The Ultimate Connection	Verizon	03/06/07	729163T	Complaint against Verizon involving provisioning during service cut-over.	04/24/07	Companies worked out order escalation processes and procedures.
Eagle Telecom, Inc.	BellSouth	05/21/07	736750T	Complaint against BellSouth involving problems with local number portability.	07/02/07	BellSouth resolved problems of order rejection due to Eagle using partial instead of full migration order.
BLC Management, LLC.	BellSouth	06/25/07	070387-TP	Complaint against BellSouth involving billing dispute.	12/12/07	BLC Management's Motion to Dismiss with prejudice was granted by Commission by Order PSC-07-1001-FOF-TP.
AstroTel, Inc.	NEFCOM	09/12/07	750420T	Complaint against NEFCOM involving problems with local number portability.	10/23/07	Staff suggested that AstroTel work out an interconnection agreement to transport calls.

APPENDIX E. SUMMARY OF COMPLAINTS FILED BY CLECS						
CLEC	**ILEC**	**Date Opened**	**Complaint or Docket Number**	**Description**	**Date Closed**	**Resolution**
Comcast Bright House Networks	Verizon	11/16/07	070691-TP 080036-TP	Complaint against Verizon for alleged failure to facilitate transfer of customer telephone numbers.	Pending	Order PSC-08-0344-PCO-TP modifies the procedures for this proceeding.
DSL Internet Corporation	BellSouth	12/03/07	760408T	Complaint against BellSouth involving delay in clearing trouble reports.	01/15/08	BellSouth and DSL Internet Corp resolved the trouble report issues.

APPENDIX F. 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 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

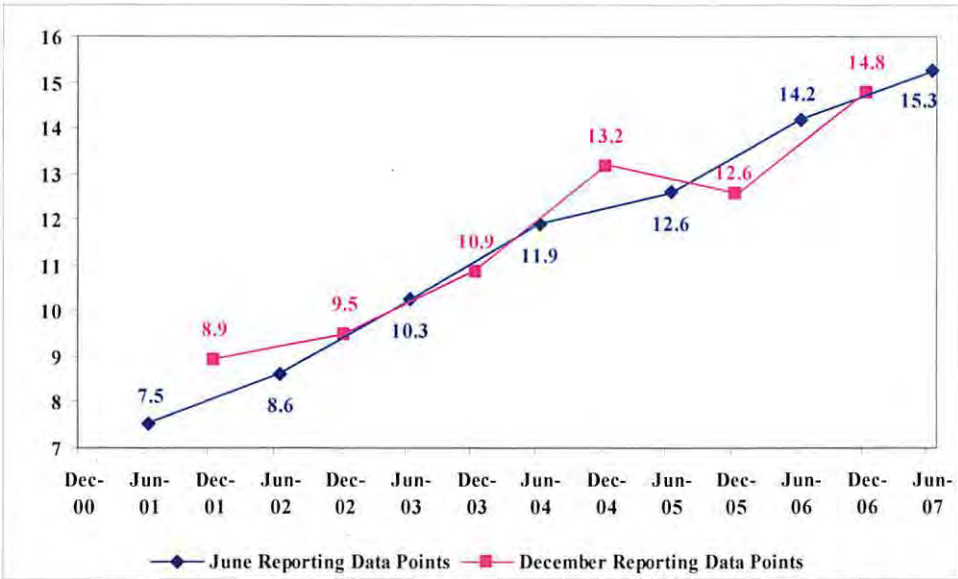
- 135 percent of the Federal Poverty Guidelines.[301]

[301] This criteria applies to ILECs AT&T, Embarq, and Verizon. Wireless carriers Sprint Nextel and Alltel that were designated by the FCC are subject to the criteria under federal rules.

APPENDIX G: FCC JUNE V. DECEMBER WIRELESS SUBSCRIPTION DATA

The previous editions of this report have used December data published by the FCC to report wireless subscription information. The 2006 report noted a departure of Florida growth trends from the national trend for December 2004 and December 2005. Since the timing of this report has changed from previous years, the most recent data are from the FCC's Local Telephone Competition report as of June 30, 2007.[302] A historical analysis using June data points compared to December data points appears in Figure G-1 below. The trend line for June data points shows a more consistent upward progression, including observations for 2004 and 2005. FPSC staff has been unable to explain the variation in December data points for 2004 and 2005.

Figure G-1. June v. December Wireless Subscription in Florida



Sources: FCC, Local Telephone Competition: Status as of June 30, 2007 and as of December 31, 2006

[302] FCC, "Local Telephone Competition: Status as of June 31, 2007," Table 14, <http://www.fcc.gov/wcb/iatd/comp.html>, accessed on April 16, 2007.

GLOSSARY	
3G	*Third-generation technology.* Used in the context of mobile telephone standards. 3G networks are wide area cellular telephone networks that evolved to incorporate 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.
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.
BPL	*Broadband over Power Lines.* The use of power line communications technology to provide broadband Internet access through a computer plugged into any electrical outlet in your home.
CDMA	*Code Division Multiple Access.* CDMA is a channel access method used by various radio communication technologies. Wideband CDMA is a type of 3G cellular network.
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.
CO	*Central Office.* A telephone company facility housing the switching system and signaling equipment that provides telephone service for customers in the immediate geographical area.
Commercial Agreement	A contractual arrangement between an ILEC and CLEC to purchase network components or other services not required pursuant to state or federal law.

GLOSSARY	
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.
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.
EVDO	*Evolution Data Optimized.* A wireless radio broadband data standard based on Code Division Multiple Access (CDMA) multiplexing. EVDO provides wireless connections for devices such as laptops, cell phones, and smartphones. EVDO supports mobile data communications at speeds up to 2.4 Mbps with Rev. 0 and up to 3.1 Mbps with Rev. A.
FiOS	FiOS is Verizon's suite of voice, video, and broadband services provisioned over 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.
FTTC	*Fiber-to-the-curb.* A hybrid network architecture which involves fiber optics to the curb, and either twisted pair or coaxial cable to the premises.
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 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.

GLOSSARY	
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.
Internet Protocol (IP)	The term refers to all the standards that keep the Internet functioning. It 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.
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.
ONU	*Optical Network Unit.* An ONU converts optical signals transmitted via fiber to electrical signals that can be transmitted via coaxial cable or twisted pair copper wiring to individual subscribers. In an FTTC system, the ONU is located at the curb and serves multiple residences.
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.
PSTN	*Public Switched Telephone Network.* The PSTN is the network that provides switching and transmission facilities to the general public.
Resale	The 1996 Act requires ILECs to offer to its 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	A statement by a regulated telecommunications company that sets out the services offered by that company. 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, CLECs are not required to file tariffs, but they must file price lists if they offer basic local telecommunications service.
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.
TRO	*Triennial Review Order.* The FCC released the TRO on August 21, 2003; the Order became effective on October 2, 2003. In this Order, the FCC determined that ILECs do not have to unbundle certain broadband elements, including FTTH loops in greenfield situations, broadband capabilities of FTTH loops in overbuild situations, the packet-switched capabilities of hybrid loops, and packet switching.
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 UNE-P. 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 with a hearing or speech disability 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 their network elements and make them available to the CLECs. UNEs are defined as physical and functional elements of the network, for example, Network Interface Devices, local loops and subloops, OSSs, etc.
UNE-P	*Unbundled Network Element – Platform.* An unbundled combination that provides an end-to-end circuit. The TRRO eliminated the UNE-P effective March 11, 2005, with a transition period extending until March 11, 2006. Available through a commercial agreement, it is known as the local platform. See Local Platform.
U-verse	U-verse is the brand name of AT&T for a group of services provided via Internet Protocol (IP), including television service, Internet access, and voice telephone service.

GLOSSARY	
Universal Service	This term describes the financial support mechanisms that constitute the national 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 rural, insular, high-cost areas, and public institutions.
VRS	*Video Relay Service.* Video Relay Service is a form of Telecommunications Relay Service that enables persons with hearing disabilities who use American Sign Language to communicate with voice telephone users through video equipment, rather than through typed text.
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.
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.