Florida Public Service Commission

Report on the Status of COMPETITION in the Telecommunications Industry

AS OF MAY 31, 2005

REPORT ON THE STATUS OF COMPETITION IN THE TELECOMMUNICATIONS INDUSTRY

As of May 31, 2005

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

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LIST OF ACRONYMS

ADSL	Asymmetric Digital Subscriber Line, *see also DSL and xDSL*
ARPU	Average Revenue Per User
BPL	Broadband Over Powerlines
CALEA	Communications Assistance and Law Enforcement Act
BEBR	Bureau of Economic and Business Research
CLEC	Competitive Local Exchange Company
Commission	Florida Public Service Commission
CTIA	Cellular Telecommunications & Internet Association
DSL	Digital Subscriber Line, *see also ADSL and xDSL*
FCC	Federal Communications Commission
FPSC	Florida Public Service Commission
FTTC	Fiber-to-the-Curb
FTTH	Fiber-to-the-Home
FTTN	Fiber-to-the-Node
FTTP	Fiber-to-the-Premises
IP	Internet Protocol
ISP	Internet Service Provider
ILEC	Incumbent Local Exchange Carrier
IXC	Interexchange Carrier
Joint Board	Federal-State Joint Board
LATA	Local Access and Transport Area
MSO	Multiple System Operator
NANPA	North American Numbering Plan Administrator
NCTA	National Cable and Telecommunications Association
NPRM	Notice of Proposed Rulemaking
NXX	End Office Code
NPA	Area Code
OPC	Office of Public Counsel
OSS	Operational Support Systems
PSC	Public Service Commission
PSTN	Public Switched Telecommunications Network
RBOC	Regional Bell Operating Company
SLC	Subscriber Line Charge
SMSA	Standard Metropolitan Statistical Area
TELRIC	Total Element Long-Run Incremental Cost
TRO	Triennial Review Order
TRRO	Triennial Review Remand Order
UNE	Unbundled Network Element
UNE-P	Unbundled Network Element – Platform
VoIP	Voice over Internet Protocol
Wi-Fi	Wireless Fidelity
Wi-MAX	Worldwide Interoperability for Microwave Access
xDSL	any type (x) of Digital Subscriber Line, *see also ADSL and DSL*

EXECUTIVE SUMMARY

This report is pursuant to 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) to prepare and deliver a report on "the status of competition in the telecommunications industry" to the Governor and Legislature by December 1 of each year. On June 3, 2005, data requests were sent to the ten Incumbent Local Exchange Companies (ILECs) and 428 Competitive Local Exchange Companies (CLECs) certificated by the Commission to operate in Florida, requesting data as of May 31, 2005. The report covers the period June 1, 2004 through May 31, 2005. Significant findings of this year's report include the following:

- As of May 31, 2005, 182 CLECs reported offering service with an overall market share of 18%, a one point increase from 17% in 2004.

Business

- CLEC business market share increased to 34% in 2005 from 30% in 2004. CLEC business access lines declined in only 42 out of 277 exchanges statewide in 2005. Of those exchanges, 25 were in BellSouth's territory, 9 in Sprint's territory, and 3 in Verizon's territory.

- Of the three largest ILECs, only BellSouth reported an increase in business access lines from 2004 to 2005, while Sprint and Verizon reported decreases from 2004 to 2005.

    - In 2005, BellSouth's business access line growth was positive at approximately 1.5%.

    - Verizon experienced a slight business access line growth in 2003, but growth declined in 2004 and decreased approximately 12% in 2005.

    - Sprint showed a significant business access line loss in 2003, a slight gain in 2004, and a decline of approximately 16% in 2005.

Residential

- CLEC residential market share decreased from 10% in 2004 to 9% in 2005. That decline was widespread, occurring in 197, or 71%, of all exchanges. Losses exceeded 1,000 access lines in 22 exchanges and exceeded 10,000 lines in three exchanges.

    - CLECs gained residential access lines in only 45 exchanges, or 16% of total exchanges, in 2005. Twenty-five of those exchanges were in Sprint territory, seven in BellSouth territory, six in Verizon, and seven in territory served by rural ILECs.

- The aggregate trend for ILEC residential access lines has been steadily decreasing since the 2002 reporting period; however, the rural ILECs actually gained lines during the most recent period. *(See Chapters I and III for more information.)*

The report focuses primarily on wireline competition in Florida because these are the providers over which the Commission has jurisdiction. ILECs and CLECs are not the only providers of voice communications services. A report on local competition would be incomplete without a discussion and analysis of the alternatives, such as wireless, cable (VoIP-based), broadband, and Voice over Internet Protocol (VoIP). These competitors, known as intermodal competitors, have developed and evolved to challenge the traditional telephone wireline companies for market share. Florida's leadership has repeatedly acknowledged the importance of promoting competition, including intermodal competition. In 2005, the Legislature passed, and Governor Bush signed, legislation to amend Chapter 364, F.S., calling for the Commission to exercise its exclusive jurisdiction to "[P]romote competition by encouraging innovation and investment in telecommunications markets and by allowing a transition period in which new and emerging technologies are subject to a reduced level of regulatory oversight.

Although it is difficult to obtain reliable and timely information on the competitive effects of wireless, cable, broadband, and VoIP providers, especially on a state level, some data is available.

- Approximately 6.1% of customers have replaced wireline with wireless telephones.[1] For some, wireless telephones serve as a substitute for wireline telephones; for others, wireless telephones serve as a complement.

- The FCC reports that there were 13,169,278 wireless subscribers in Florida at the end of 2004 – almost 2 million more than the 11,360,408 wireline (ILEC and CLEC combined) access lines.[2] Access lines (wireline) and wireless handsets are not strictly comparable. Wireless is counted as the sum of each person with a wireless telephone, while access lines in homes or businesses are generally used by more than one person.

- Cable companies (also known as multiple service operators or MSOs) initially began offering circuit-switched telephone service over their own networks, much like that of the ILECs. Most MSOs have recently begun to roll out VoIP service challenging the markets historically covered by ILECs. Indications are that rapid growth in cable VoIP lines is occurring, but, at this stage of development, the penetration rates are relatively low.

- VoIP is provided by ILECs, CLECs, cable companies, and by companies that require customers to provide their own broadband connection. Roughly one million Americans nationwide are estimated to have subscribed to VoIP at the end of 2004.

[1] Blumberg, et. al., "The Prevalence and Impact of Wireless Substitution: Updated Data from the 2004 National Health Institute Survey," *Center for Disease Control and Prevention*, Presented May 14, 2005, at the Annual Conference of the American Association for Public Opinion Research.
[2] FCC, "Local Telephone Competition: Status as of December 31, 2004, July 2005, Tables 6 and 13.

- By year-end 2005, the Yankee Group projects that cable providers will be the VoIP market leaders with an estimated 56% of the VoIP market, followed by traditional wireline telephone companies with an estimated 25% of the VoIP market.[3] *(See Chapter IV for more information.)*

While it is unclear how quickly the cable companies and VoIP providers will provide significant competition in the local market, it is important to keep in mind that wireline telecommunications providers and, in particular, large incumbent local exchange companies still serve the vast majority of basic local service customers. (BellSouth, Sprint, and Verizon serve approximately nine million access lines in Florida.) In their efforts to retain this majority position, wireline telecommunications providers, such as BellSouth, Sprint, and Verizon and their affiliates,[4] have actively expanded their wireless and broadband operations. The companies plan to offer video services through fiber projects or in partnership with satellite television providers in order to compete with cable providers that combine video, broadband, and VoIP service. The ability to transport vast quantities of content at high speed requires the ILECs to upgrade their networks, typically using fiber. Content (television shows for example) is what an ILEC needs to compete head-to-head with the MSOs. Cable companies are also beginning to partner with wireless providers in order to provide a complete communications package. *(See Chapter IV for more information.)*

Clearly, the simple CLEC market share calculation understates the true market share held by competitors including wireless, cable, and other IP-enabled (Internet Protocol) providers. The gap between the CLEC market share and the true size of the competitive market share is unknown today, but we believe it will continue to grow as alternatives become more generally accepted.

[3] Matthew Fordahl, "Vonage to get Internet Phone Competition" USA Today, April 13, 2005, <http://www.usatoday.com/tech/techinvestor/corporatenew 2005-04-13 VOIP-Competition x.htm#> (April 13, 2005).
[4] Wireless carriers owned wholly, or in part, by ILEC affiliates include Cingular, owned jointly by SBC and BellSouth, Verizon Wireless owned jointly by Vodafone and Verizon, and Sprint (the ILEC) is currently held by Sprint Nextel Corporation.

CHAPTER I: INTRODUCTION AND BACKGROUND

Chapter 364, F.S., sets forth the principles by which the Commission regulates wireline telecommunications companies. Regulation is primarily focused on incumbent local exchange companies (ILECs). Competitive local exchange companies (CLECs) and intrastate interexchange carriers (IXCs) are subject to minimal regulation. The Commission does *not* regulate wireless,[5] broadband, Voice over Internet Protocol (VoIP),[6] or cable modem service.

Chapter 364 requires the Commission to prepare and to deliver a report on "the status of competition in the telecommunications industry" to the Governor and Legislature by December 1 of each year. Specifically, Section 364.386, F.S., requires that the report address the following issues:

- The overall impact of local exchange telecommunications competition on the continued availability of universal service.
- 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.
- The ability of customers to obtain functionally equivalent services at comparable rates, terms, and conditions.
- The overall impact of price regulation on the maintenance of reasonably affordable and reliable high-quality telecommunications services.
- 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.
- 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.

These specific statutory issues will be addressed in Chapter V. The report is structured to provide supportive information prior to the discussion of these issues.

This report covers the period June 1, 2004 through May 31, 2005, with data as of May 31, 2005. As of May 31, 2005, ten ILECs and 428 CLECs were certificated by the Commission to operate in Florida. The number of certificated CLECs increased slightly from 420 in 2004. In

[5] Florida law exempts wireless from Commission jurisdiction (Section 364.02(13)(c)).
[6] Certain VoIP providers have *voluntarily* pursued and obtained CLEC certificates. VoIP is not regulated by the Commission in accordance with Sections 364.01(3) and 364.02(12), F.S.

2005, 182 CLECs reported offering service compared to 175 in 2004.[7] The 2005 response rate to the Commission survey was 100% for ILECs and 89% for CLECs.[8]

In addition to the mandated topics (Chapter V), this report includes an introduction and overview of the local telecommunications exchange market-opening provisions of the Telecommunications Act of 1996 (the 1996 Act) and Chapter 364, F.S., in Chapter I. This chapter also discusses the methodology used in preparing this report, including efforts to streamline the data gathering process.

Chapter II provides a general overview of the communications market, including those parts of the market over which the Commission has no authority. Chapter III provides a detailed analysis of the status of local wireline competition in Florida, examining the data by market share percentage, number of access lines, and by various geographic areas including exchange and ILEC territory. Chapter IV describes the status of nontraditional communications technologies, such as wireless and Voice over Internet Protocol (VoIP) and discusses intermodal competition.

The six issues required to be addressed by Chapter 364, F.S., are the focus of Chapter V. Chapter VI and Chapter VII contain reviews of regulatory and legislative activities at the state and federal levels, respectively. The appendices include tables containing a list of the CLECs providing service in Florida (Appendix A), the number of providers by exchange (Appendix B), the percentage of CLEC access lines by exchange (Appendix C), a summary of CLEC complaints (Appendix D), a list of certificated CLECs as of May 31, 2005, with those CLECs that did not respond to the Commission's data request noted (Appendix E), and a list of eligibility criteria for Lifeline Assistance (Appendix F). A glossary of telecommunications terms is provided after the appendices.

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 service, encourage technological innovation, and encourage investment in telecommunications infrastructure."[9] As noted previously, this report is a statutory requirement that was also initiated by the 1995 Legislature.

[7] There are a variety of reasons for the variation between the number of CLECs certificated and the number that actually provide service. These reasons include obtaining certain rights and privileges accorded to certificated CLECs and the rather low cost of CLEC certificates in Florida. Historically the filing fee associated with a CLEC certificate has been $250, and the minimum annual regulatory assessment fee to retain the certificate has also been $50. It is likely that given the low cost of acquiring and maintaining a certificate, many CLECs have elected to do so with the hope of offering services in Florida in the future.

[8] The response rate calculation differs from prior reports. In 2005, the response rate was calculated as the number of actual responses divided by the total number of data requests mailed to CLECs. In prior reports, the response rate was calculated as the number of actual responses PLUS the number of data requests returned by the U.S. Post Office, divided by the total number of data requests mailed to CLECs. If the 2005 response rate had been calculated as in prior years, it would have been 95%.

[9] Chapter 364.01(3), F.S.

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, that "[T]he 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." CLECs must also provide a flat-rate pricing option for basic local telecommunications services. The statute states that "mandatory measured service for basic local telecommunications services shall not be imposed."

In 2005, the Florida Legislature amended Chapter 364.01(4)(d), F.S., finding that the Commission shall exercise its exclusive jurisdiction to "[P]romote competition by encouraging innovation and investment in telecommunications markets and by allowing a transition period in which new and emerging technologies are subject to a reduced level of regulatory oversight."

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 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* [italics in original] telecommunications markets."[10] The opening of all telecommunications markets to all providers was expected to blur traditional industry distinctions. Not only have CLECs entered the local market, but less traditional providers, such as wireless, cable, and broadband communications providers, have also entered this market using their own facilities or new technologies to their advantage to compete against traditional wireline providers for a share of the market.

The 1996 Act established three methods by which CLECs can enter the local exchange market: resale, leasing of unbundled network elements (UNEs), and investing in their own facilities.[11] Because ILECs dominate the last mile of the local network, CLECs must either use the ILEC's local loops, build their own facilities, 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. A brief description of each entry strategy provided for in the 1996 Act follows.

a. Resale

Resale is a method of market entry often used as a starting point for CLECs to gain exposure in the marketplace. Under this method, CLECs are able to purchase, at a discount, and resell any telecommunications services that ILECs offer to their retail customers. Those CLECs that focus on serving customers who have been disconnected by the ILEC or who prefer prepaid service may view resale as a long-term strategy.

[10] FCC 96-325, CC Docket No. 96-98, "Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order," August 8, 1996, ¶4.
[11] Policies such as number portability and interconnection also facilitate CLECs' entry into this market.

b. Unbundled Network Elements

Unbundled Network Elements (UNEs) are the building blocks of ILEC[12] networks used to provide telecommunications services. This method of entry requires ILECs to unbundle their networks and lease the parts or elements of the network to CLECs at rates based on a total element long-run incremental cost (TELRIC) methodology.

Many CLECs have been using a UNE platform (UNE-P) comprised of a loop, shared transport, and switching as their primary means to provide local service. On February 5, 2005, the FCC released its Triennial Review Remand Order (TRRO) mandating the elimination of mass market local switching (a necessary component of UNE-P) by March 11, 2006.[13] Any CLEC that uses UNE-P must make a decision regarding what to use in place of UNE-P. One alternative is to purchase only loops and either install a switch (become a facilities-based CLEC) or lease capacity on another CLEC's switch. Some CLECs report turning to resale, while others have signed commercial agreements with ILECs to obtain UNE functionalities at market-based, rather than TELRIC-based, prices. For example, on March 23, 2005, BellSouth announced that it had signed commercial agreements with more than 100 CLECs, including AT&T.[14]

c. Facilities

Facilities-based CLECs are those that have invested in facilities, which may consist of loops and/or switching equipment, to serve end-users. Frequently, CLECs enter the market using resale or UNE-based services while investing the financial resources necessary to grow a customer base and to build a telecommunications network that, in whole or in part, allows services to be provided independent of the ILECs. As mentioned above, elimination of UNE-P may result in more CLECs becoming facilities-based.

B. METHODOLOGY

As in prior years, the Commission prepared this report using responses by CLECs and ILECs to 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). The staff data request consisted of both quantitative questions (for example, access line counts) and qualitative questions (for example, has the FCC's Triennial Review Remand Order affected a CLEC's business plan).

The Commission continues its efforts to increase efficiency while gathering the data and information necessary to produce this report. Commission staff revised the data requests this year to meet four goals: 1) simplify the data requests, 2) ensure that CLEC access lines are reported whether they are purchased under an interconnection agreement or through a

[12] Non-rural ILECs are required to unbundle their networks.
[13] FCC 04-290, WC Docket No. 04-313, CC Docket No. 01-338, "Unbundling Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand," February 4, 2005, ¶199.
[14] "BellSouth and AT&T Sign Commercial Agreement," *BellSouth Press Release*, March 23, 2005. <http://bellsouthcorp.policy.net/proactive/newsroom/release.vtml?id=49267> Although the press release did not specifically indicate that all the agreements were region-wide, it did state that the agreement with AT&T was for the BellSouth region, (July 13, 2005).

commercial agreement, 3) incorporate questions about changing market conditions (for example, questions on industry consolidation were included), and 4) incorporate questions about the changing regulatory environment (for example, asking CLECs whether the TRRO has changed their business plans). Draft versions of the CLEC and ILEC data requests were provided to some of the CLECs and ILECs in advance of release in order to elicit their feedback on the type of information requested and to determine whether the companies expected difficulties in providing the information by the due date. In addition to again making the Word and Excel files comprising the data request available on the Commission's website, files containing instructions for ILECs and CLECs and a list of exchanges by ILEC were added to the Commission's website.

Commission staff is confident that the data presented and the analyses that follow are accurate based on the information provided by the ILECs and the reporting CLECs. As in previous years, precise market share calculations are hindered because a number of CLECs failed to respond; however, the response rate has been increasing.[15] The 2005 response rate of 89% is the highest yet. Lack of a 100% response from CLECs may result in some understatement of market share; however, this does not affect the conclusions reached in this report.

[15] The data request was mailed to the ILECs and CLECs on June 3, 2005. A second letter was mailed to nonresponding CLECs on July 19. Telephone calls were made to the CLECs that had not responded by August 1.

CHAPTER II: COMMUNICATIONS MARKET OVERVIEW

Today's communications landscape looks significantly different than it did prior to the 1995 change in Florida law, which permitted wireline competition for local exchange service, and prior to the Telecommunications Act of 1996.[16] Those changes in state and federal law envisioned a world in which competitors would provide the same or similar wireline services as traditional wireline telecommunications companies. Few experts foresaw the explosive growth in wireless communications and Internet technology that has transformed a once static, wireline-dominated telecommunications market into a multifaceted dynamic market with multiple technological platforms, each providing its unique brand of communications services. To be sure, wireline telecommunications service providers and, in particular, large ILECs still serve a decided majority of basic local service customers. In order to retain that status, they or their affiliates have actively expanded their wireless and broadband operations to maintain a presence in growth markets. In addition, companies such as BellSouth and Verizon are also securing video programming arrangements in order to compete with cable companies for distribution of video services.

In addition to the growth of wireless and cable competitors, other factors are also influencing how competition is currently shaped. These include regulatory changes on both the federal and state levels, a restructuring of the industry due to several significant mergers and acquisitions, and an increasing recognition of broadband as an economic development and quality of life facilitator. This chapter provides an introduction to some of the factors and influences in today's communications environment.

A. WIRELINE

Incumbent wireline companies continue to dominate the wireline markets in terms of market share. However, competitive wireline companies have made and continue to make inroads, even in an environment of overall declining access lines for the industry. Competitors continue to show the greatest strength among medium and large business customers: where the investment in their own facilities will provide the best chance of success and also provide the carrier the greatest flexibility and freedom to design services that best meet customer needs.

Affiliates of incumbent wireline companies have also invested heavily in the wireless market, including wireless broadband, seeking out profits in a still expanding market. In addition, most incumbent wireline companies now provide high-speed data service in the form of Digital Subscriber Line service or DSL. These are essentially nonregulated markets where competition is expanding and there is still potential for significant growth.

This report focuses primarily on wireline competition in Florida because that is the area over which the Public Service Commission has jurisdiction and for which the Florida Legislature ostensibly requested this report. However, no picture of the wireline market would be complete

[16] As used in this report, "telecommunications" specifically refers to traditional wireline (ILEC and CLEC) communications. "Communications," a more generic term, can be used to describe traditional wireline service, wireless service, cable service, VoIP, and advanced services.

without addressing the increasing level of competition from other sources including wireless, broadband, and VoIP.

B. WIRELESS

Wireless subscribership continues to grow, and recent reports by industry investment analysts indicate that the number of subscribers willing to abandon their wireline telephone in favor of going wireless is also growing.[17] This trend is seen as particularly significant for one and two person households, which Raymond James analysts believe represent the group most likely to substitute their wireless telephone for a landline telephone.[18] This group could represent more than 50% of all households by 2010.[19] In addition, text messaging via wireless telephones is an increasingly popular phenomenon. This, combined with the increased functionality of personal wireless devices, such as BlackBerrys and other portable devices, continues to fuel wireless growth. Cellular picture telephones are becoming more popular, which provides further impetus for increased sales of wireless devices. Wireless data services and applications specifically designed for handheld devices are also growing in popularity, including such uses as interactive games and digital music. Such applications serve to increase the scope of usefulness of handheld wireless devices, thus making them attractive to an even broader market.

C. BROADBAND AND VOIP

Access to the Internet has evolved from little more than a curiosity as few as ten years ago to a near necessity today. Governments at all levels have taken steps to make Internet access as widely available and accessible as possible. As reflected in the FCC's recently released report on high-speed Internet access, high-speed lines serving residential and small business users increased by 36% in 2004 and reached a total of 35.3 million lines.[20] The report also finds that asymmetric digital subscriber line[21] (ADSL) service represents approximately 13.8 million lines, while cable modem service accounts for approximately 21.4 million lines.[22] While access to the Internet provides a plethora of news, entertainment, and information opportunities, it has also become a significant personal communications media, one that must be considered in any analysis of the advanced communications market. While even dial-up Internet access permits e-mail communications, broadband or high-speed Internet access has opened the door to fast and efficient written, spoken, and visual communications.

Broadband or high-speed Internet access makes it possible for real-time interactive e-mail exchanges, for real-time voice communication, and for near real-time video conferencing. As a result, an increasing number of new market entrants are providing voice communications services via the Internet using Voice over Internet Protocol or VoIP. VoIP providers Skype and Vonage are just two examples of companies that are software-based voice communications

[17] Frank G. Louthan IV, "Reassessing the Impact of Access Lines on Wireline Carriers," Raymond James & Assoc., Inc., Equity Research, July 11, 2005, p. 2.
[18] Ibid, p. 2.
[19] Ibid.
[20] FCC, "High Speed Services for Internet Access: Status as of December 31, 2004," July 2005, p. 3.
[21] Asymmetric in this context means that download speeds are different than upload speeds. Generally, download speeds will exceed upload speeds.
[22] Ibid, p. 2.

providers using this technology. They own no network facilities and instead provide service over the Internet using the customer's own broadband access connection to originate or to terminate calls. While VoIP customers constitute only a very small percentage of total telecommunications customers, it is a growing number. One aspect of the service that is very attractive is that the price is low relative to wireline or wireless providers. This is due, in part, to the fact that, as an Internet-based service, VoIP service providers and their subscribers are not subject, in all cases, to the same federal, state, and local taxes, Universal Service Fund contributions, and other charges (intercarrier compensation, telephone relay surcharges, E911 surcharges, etc.) that traditional wireline or wireless carriers and their subscribers must pay.[23] In 2005, the Florida Legislature amended Section 202.11, F.S., to require VoIP providers serving Florida subscribers to pay the Communications Services Tax.

D. REGULATORY AND LEGAL FACTORS

The influence of the changing regulatory and legal framework on the telecommunications market since the 1996 Act has been significant. The FCC and the states have attempted to flesh out the unspecified details that are necessary to carry out the intent of the Act and to interpret the Act in light of new services and technologies that have evolved since its passage. In early 2005, the FCC released its Triennial Review Remand Order (TRRO), which included new unbundling rules.[24] Its approach in this Order was designed to ensure that its "rules provide the right incentives for both incumbent and competitive LECs to invest rationally in the telecommunications market in the way that best allows for innovations and sustainable competition [footnote in original omitted]."[25] The Commission has previously advocated in comments filed with the FCC in the TRO remand proceeding that, ". . . consumers in Florida and across the nation are best served by facilities-based competition as a sustainable form of competition that will promote greater innovation and investment and, therefore, will provide expanded products and services for our consumers."

Significant federal issues addressed in the current year included the elimination of certain unbundled network elements, including local switching, that will lead to the eventual elimination of UNE-P (unbundled network element-platform). UNE-P has been the most prevalent market entry strategy used by CLECs to provide residential basic local exchange service. A significant consequence of removing local switching as a UNE is that it will no longer be available at forward-looking, cost-based rates. A second consequence is that, where economically feasible, it will provide incentive to carriers to invest in their own switching facilities. While local switching functionality will most likely be available, either through commercial agreements with ILECs or from other CLECs that have unused switching capacity, the price of these options will undoubtedly be greater than that of the former local switching UNE. This higher cost may affect the ability of many non-facilities-based CLECs to compete for residential and small business customers. Of significant note is that both MCI and AT&T announced that they will no longer seek new residential customers for either local or toll services and will, instead, focus on enterprise or medium to large business customers. This is occurring at a time when other

[23] Florida cable VoIP providers Brighthouse, Comcast, and Cox are currently paying the Communications Services Tax in accordance with Chapter 202.11(3) F.S., and are voluntarily contributing to the Universal Service Fund.
[24] FCC 04-290, WC Docket No. 04-338, "Unbundling Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand," February 4, 2005, ¶2.
[25] Ibid.

competitors, such as cable companies and VoIP providers, are seeking a greater share of the voice market.

Other noteworthy federal regulatory decisions include the determination by the FCC that VoIP providers that interconnect with the public switched network (PSTN) are required to provide E911 service and will not be permitted to opt out of doing so. This will impose costs on VoIP providers that may be significant in some cases. Fledgling VoIP providers with relatively small numbers of customers may not be able to sustain the economic impact of this requirement.

Also at the federal level, the U.S. Supreme Court, in a recently issued decision, upheld the FCC's determination that cable modem service does not include a separable telecommunications component and is, therefore, not subject to Title II regulation under the federal law. Title II regulation is the regulatory scheme under which telecommunications services fall and is the most rigorous oversight for communications services provided under federal law. On September 23, 2005, the FCC released a Report and Order and Notice of Proposed Rulemaking (NPRM) that also classified wireline broadband Internet access services, including DSL service, as an information service.[26] As a result of this classification, DSL will not be subject to Title II regulation at the federal level.

At the state level, the Supreme Court of Florida issued its Order on the appeal of the Public Service Commission's 2003 decisions on access charge rate reductions and local rate rebalancing for BellSouth, Sprint, and Verizon.[27] Among the Court's conclusions were that:

- Both economic and empirical evidence supported the Commission's finding that granting the petitions will create competition to the benefit of residential consumers as required by Section 364.164(1)(a), F.S.;

- The Commission had interpreted the term "benefit" consistent with the plain meaning of the term and the announced intent of the legislation;

- There was competent, substantial theoretical and empirical evidence to support the determination that granting the petitions will induce enhanced market entry as required by Section 364.164(1)(b) , F.S.; and

- The Commission "acted within the bounds of its authority and discretion" in determining that granting the petitions is consistent with the requirement to ensure that basic local service is available at reasonable and affordable prices under Section 364.01(4)(a) , F.S..

The Court's decision clears the way for a transition that will allow BellSouth, Sprint, and Verizon to reduce their intrastate access charge rates to parity with interstate usage-based access rates in effect on January 1, 2003. The companies are also authorized to increase the rates for basic local service of residential and single-line business customers, in a revenue neutral manner,

[26] FCC 05-150, CC Docket No. 02-33, "Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, Report and Order and NPRM," September 23, 2005, ¶199.
[27] Crist v. Jaber, 908 So. 2d 426 (Fla. 2005)

to offset the revenue loss from reducing intrastate access charges to parity. It was the intent of the Florida Legislature that, by so doing, an environment that is more conducive to inducing competitive entry for local telecommunications service would result.

On September 16, 2005, the affected companies filed tariffs to initiate the rate changes. The new rates will be effective as of November 1, 2005. These changes will fall outside the period of analysis for this report and the effect, if any, of increasing basic local rates and decreasing intrastate access charges will not be detectable until the next reporting period at the earliest.

A closer look at state and federal activities of note appears in subsequent chapters of this report.

E. MERGERS AND ACQUISITIONS

While consolidation and restructuring within the industry has been anticipated as the market sorts out the winners and the losers, the recent reporting period has seen substantial activity in this regard. While the motivations for particular mergers may vary in large degree from case-to-case, it is safe to say that the decision of the FCC to eliminate local switching as a UNE, the continuing decline of wireline access lines, and the pressure from wireless and VoIP providers on long distance revenues serve as significant factors in recent activity.

Eroding consumer long distance revenues and the FCC's decision to eliminate local switching as a UNE were primary factors influencing MCI and AT&T to consider merger and acquisition offers. Both MCI and AT&T were facing negative economic impacts to their residential and small business products from those factors. By merging with AT&T, SBC will benefit from AT&T's critical infrastructure and large business customer base. Verizon, in turn, will benefit from MCI's success in serving large business customers and from its network infrastructure. By comparison, the wireless pairing of AT&T Wireless and Cingular Wireless, followed by Sprint and Nextel, and ALLTEL and Western Wireless, suggests that economies of scale and a national footprint are viewed as crucial for continued success in the wireless industry.

In addition to mergers and acquisitions of large, nationally recognized wireline and wireless carriers, there were also numerous mergers and acquisitions among smaller CLECs and broadband-only providers consolidating to achieve economies of scale and realigning business plans to accommodate the provision of combined voice and data services. For example, in February 2005, TelCove, a provider of telecommunications services to large business customers and carriers, agreed to acquire certain network assets and customers from KMC Telecom. The markets acquired from KMC included Clearwater, Daytona Beach, Fort Myers, Melbourne, Pensacola, Sarasota, and Tallahassee, Florida.

F. MUNICIPAL BROADBAND PROVISION

Across the nation, one of the most hotly contested public policy debates among state and local governments, state legislatures, and in Congress is the issue of local government provision of telecommunications services and, in particular, broadband Internet access. A growing number

of local governments are making the decision to enter into the business of providing broadband access to local businesses and residents. Not surprisingly, the telecommunications industry, led by ILECs and supported, in large part, by the cable industry, is strongly opposed to the use of government funds to provide broadband services for public consumption in direct competition with private sector firms.

Local governments argue that broadband access is now a key component to successful economic development and that frequently the private sector has not responded in a manner that facilitates the economic development objective of the local community. They also argue that, in many communities, insufficient competition for broadband access exists to drive pricing to a level that is affordable for small business and residential consumers. This may disadvantage the community from an economic development perspective, but it also limits access by lower income local residents, including those parents of school age children. Thus, they suggest that broadband Internet access has some characteristics of a public good, which justifies governmental provision.

The communications industry counters that investing public funds in infrastructure that will result in the provision of services that are in direct competition with private sector investment is inefficient and, furthermore, inherently anticompetitive. Since local governments are generally able to secure bond financing at substantially better terms than private sector companies, the industry has argued that this gives governments an unfair advantage in the ability to price retail services. Furthermore, the industry questions whether most governmental entities possess the necessary technical expertise to successfully operate and manage such operations in a profitable or cost-effective manner. Another point in opposition to governmental provision of broadband services is whether or not the provision of communications or broadband services is the best use of public funding, given the broad range of governmental responsibilities.

The 2005 Florida Legislature passed a law that puts in place a process for governmental entities to follow should they desire to provide communications services, including broadband. Among other requirements, the law provides that a local government must conduct a public hearing on the decision to provide such services and must make a business plan available to the public for review at the hearing. In addition, should a governmental entity choose to enter the communications market, it must maintain separate books and records for the venture. After four years, it must conduct a review to determine if the operation is profitable and, if not, it must determine how best to proceed, if at all.

Legislation has been introduced at the federal level both to prohibit government provision of broadband service and to permit governmental provision of such services. While it is premature to conclude what, if any, impact governmental provision of broadband services might have on the telecommunications market in Florida, it is a factor worthy of consideration.

As noted previously, the primary focus of this report is on wireline providers of communications services in Florida. However, this brief overview of industry trends by sector and the discussion of current regulatory and legal issues provides essential context to the analyses that follow.

CHAPTER III: STATUS OF LOCAL COMPETITION IN FLORIDA

A. FACTORS INFLUENCING WIRELINE COMPETITION IN FLORIDA

Economic data released in August by the Florida Agency for Workforce Innovation reported that the preliminary July 2005 unemployment rate of 3.8% was the lowest since November 2000.[28] Job growth in Florida increased 3% for June 2005 compared to June 2004, the highest rate in the ten most populous states.[29] This data suggests that the general business climate in the state has been positive. In addition, Florida's population continues to expand.[30] However, in spite of these facts, total industry wireline access lines declined in 2005. Of ILEC and CLEC residential and business access lines, only CLEC business lines experienced positive growth.

Since 2002, total industry access lines in Florida have been in decline. The decrease has been limited primarily to ILEC residential access lines. However, 2005 data indicate a decline in ILEC business access lines as well. It is difficult to know the precise reason for these declines, but there are a number of possible causes. It may be that the primary source of access line loss has changed over time as newer services and technologies have become more widely accepted by both business and residential consumers and fewer consumers devote residential access lines to personal computers.

One source of access line loss may be attributable to the decline in residential second lines that were previously devoted to personal computers for dial-up Internet access. Broadband Internet access through any platform would eliminate the need for a separate access line devoted to a personal computer. This effect may have manifested itself not only as a reduction in the number of lines previously in service but also as reduced demand going forward for consumers that went directly to a broadband connection.

Another likely source of access line loss is the impact of intermodal competition from wireless providers, cable VoIP providers, and VoIP providers not affiliated with a particular facilities-based provider (such as Vonage, Net2Phone, Lingo, etc.). At least one study has determined that residential wireless substitution for wireline service was 6.1% as of December 2004. In addition, some businesses might also have elected a wireless-only alternative, and many have likely chosen a wireline-wireless combination.

While reliable data relating to cable-based VoIP and Internet-based VoIP is elusive, all indications are that it is a small but rapidly expanding portion of the communications market. As with wireless substitution, the choice of VoIP (both cable- and Internet-based) is not limited either to residential or business customers.[31]

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[28] Florida Agency for Workforce Innovation, "Florida Employment and Unemployment August 2005," September 16, 2005, <http://www.labormarketinfo.com/library/press/release.doc> (September 27, 2005).
[29] Ibid.
[30] U.S. Census Bureau, Table 1: Annual Estimates of Population for the United States and Puerto Rico: April 1, 2000 to July 1, 2004 (NST-EST2004-01), Source: Population Division, December 22, 2004.
[31] For example, a search on Google produced a link to a website that offers a Florida business of any size an opportunity to receive a quote from any one of several VoIP providers (bridgeone broadband marketplace website, <http://www.broadbandlocators.com/voice-over-ip-voip/Florida.php> (September 1, 2005).

Substitution of other services has a direct impact on the number of Florida access lines. However, there are other factors that are also contributing in an indirect manner. In particular, on February 4, 2005, the FCC released its *Triennial Review Remand Order*[32] (TRRO), which altered ILEC unbundling obligations (discussed in greater detail in Chapter VII). A central feature of the TRRO likely to have an impact on both ILEC and CLEC access line counts is that the TRRO eliminated mass market[33] local circuit switching as a UNE priced at TELRIC-based rates, effectively eliminating UNE-P. UNE-P has been the most prevalent provisioning method for CLEC residential service, as well as a significant portion of small business service. In Florida, 77% of CLEC residential service was provisioned over UNE-P, and 20% of CLEC business service was provisioned over UNE-P during 2005 reporting period.

The TRRO included a transition plan that provides time for a CLEC to migrate its embedded base of customers away from UNE-P.[34] For these customers, UNE-P will continue to be available for 12 months after March 11, 2005. CLECs have not been permitted to add new UNE-P arrangements, whether to serve new or previously existing customers.[35] There are other avenues open to CLECs to add new arrangements, such as resale, negotiating commercial agreements with ILECs, and becoming facilities-based providers. These provisioning methods, however, will cost more than UNE-P. This outcome was widely anticipated by the trade press, and it is likely that many CLECs adjusted marketing and business plans to accommodate such an outcome in advance of the actual decision. Even though phase out of UNE-P arrangements began only two and a half months prior to the end of the reporting period for this report, it is possible that some of the impact is reflected in the 2005 numbers. However, that impact is likely to be small to insignificant in this year's data.

With the TRRO effectively eliminating UNE-P, one alternative for CLECs is to negotiate a commercial agreement with an ILEC for a UNE-P-type service but at a higher rate. Commercial agreements are becoming increasingly common. In March 2005, BellSouth announced that it had signed more than 100 commercial agreements region-wide with CLECs, including AT&T and MCI.[36] Another alternative is for a CLEC to provision service over its own, or another CLEC's, switching facilities.

Another factor that may have influenced the resulting wireline data is the decision by AT&T and MCI to no longer seek new residential customers. AT&T and MCI were significant purchasers of UNE-P arrangements in Florida for the purpose of serving residential consumers. Their decision may have contributed to relatively flat overall CLEC access line growth for the 2005 reporting period.

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[32] FCC 04-290, WC Docket No. 04-313, CC Docket No. 01-338, "Unbundling Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand," February 4, 2005.
[33] Mass market generally refers to residential and small business customers whose telecommunications needs do not justify high capacity service provided through T1 or greater service.
[34] FCC 04-290, WC Docket No. 04-313, CC Docket No. 01-338, "Unbundling Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Order on Remand," February 4, 2005, ¶227.
[35] Supra and other CLECs disagree with this interpretation as it relates to previously existing customers. On October 18, 2005, the Commission voted to deny Supra's Emergency Motion to Require BellSouth to Effectuate Orders for Supra's Embedded Customer Base.
[36] "BellSouth and AT&T Sign Commercial Agreement," BellSouth Press Release, March 3, 2005, <http://bellsouthcorp.policy.net/proactive/newsroom/release.vtml?id=49267>, (August 24, 2005).

Of the three largest ILECs, BellSouth has consistently attracted the greatest concentration of CLEC activity in Florida. This is due to a number factors including: generally higher population densities in its service areas, the fact that UNE rates were established for BellSouth prior to the other ILECs in Florida, and that those UNE rates are lower than those established for Sprint and Verizon. Thus, for those CLECs using UNEs and UNE-P as a market entry strategy, BellSouth's service territory was preferable to that of Sprint and Verizon. BellSouth also pays monetary penalties when it fails to meet specified performance measures for CLEC interconnection while Sprint and Verizon do not. BellSouth's generally greater population density makes it easier for competing carriers to achieve economies of scale in their operations in BellSouth's territory than in the territories of other Florida ILECs. The combination of these factors provide a strong incentive for CLECs to do business in BellSouth's service territory.

Finally, it is expected that BellSouth, Sprint, and Verizon are reacting to competitive pressures, both from wireline CLECs and from intermodal competitors, in order to win back new and former customers and to maintain existing customers.

This list of factors is not purported to be all inclusive but to be reflective of known variables influencing the data presented in the following sections of this chapter. This could potentially have an impact on the relative growth or decline of both CLEC and ILEC access lines. Section B of this chapter describes Florida's competitive local wireline market. It also includes a brief description of the national competitive market. Section C examines Florida access line trends on a more disaggregated basis and concludes with a look at trends that may impact the 2006 report.

B. WIRELINE MARKET SHARE ANALYSIS

1. CLEC Market Share Growth

a. Florida

Calculations based on responses to the Commission's data request indicate the following CLEC Florida market share information as of May 31, 2005:

- CLEC overall market share increased to 18%, from 17% last year.
- CLEC business market share increased to 34%, from 30% last year.
- CLEC residential market share decreased to 9%, from 10% last year.

Figure 1 provides the overall CLEC market shares for 2002 through 2005.

Figure 1

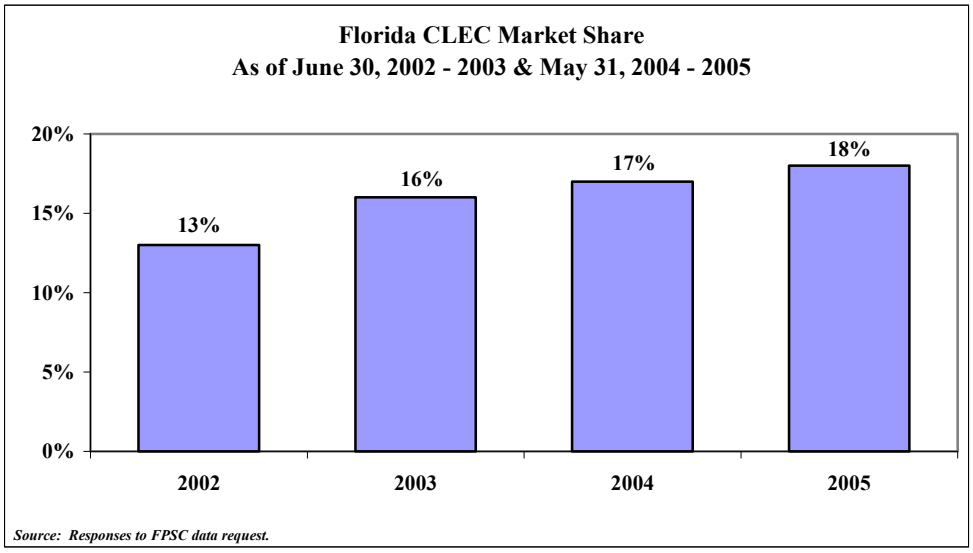
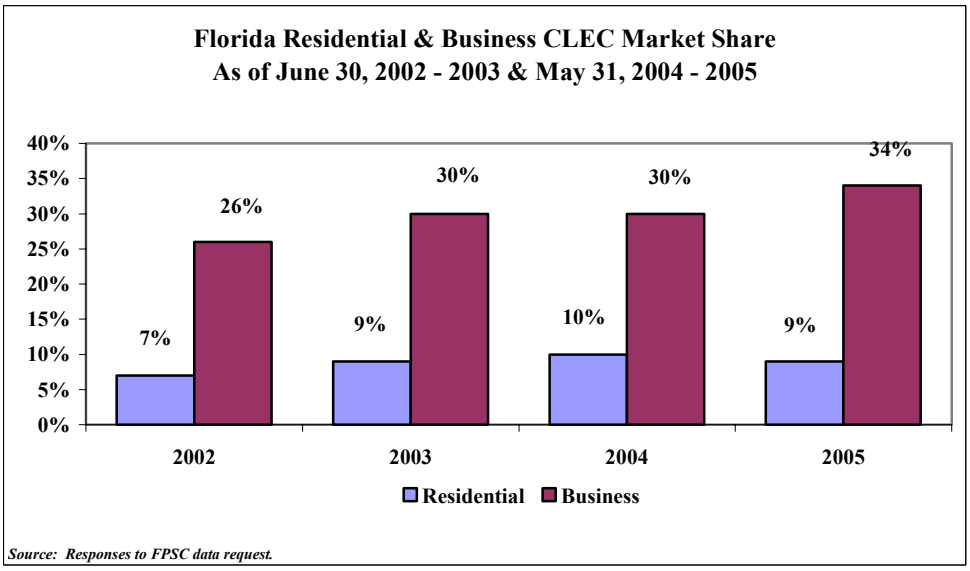


Figure 2 provides a breakdown of the CLEC residential and business market shares.

Figure 2



b. National

According to the FCC's most recent report on local competition, the national average for CLEC market share is 18%.[37] The FCC reports Florida's CLEC market share at 16%, two points below what the Commission reports. This disparity is not a cause for concern because there is a difference in timing and because the FCC excludes data that the Commission includes. The FCC's data is as of December 31, 2004, six months earlier than the Commission's data. Additionally, the FCC excludes all CLECs with fewer than 10,000 lines unlike the Commission, which includes all CLECs no matter how few lines they may have.

In the Commission's access line count provided in this report, approximately 213,000 lines are included that, theoretically, would be excluded in the FCC's report. Without the inclusion of these lines, Florida's CLEC market share calculation would drop from 18% to approximately 16.6%, thus understating Florida's CLEC market share. It is likely that the FCC understates market shares in most, if not all, states. However, beginning in September 2005, the FCC will include all CLECs, even individual CLECs that have fewer than 10,000 lines, therefore eliminating this disparity.

2. Access Line Comparisons

Based on responses to the Commission's data requests, local exchange companies were serving 11,507,221 lines in Florida as of May 31, 2005. Table 1 summarizes the changes in access lines for both ILECs and CLECs for the 2002 through 2005 reporting periods.

- Total access lines in Florida declined approximately 2% in the reporting period, the fourth straight year of decline.
- The total number of business lines continues to increase, while the total number of residential lines continues to decrease.
- Since 2002:
  - Total access lines in Florida have declined 2%.
  - ILECs have lost 8% of their lines.
  - CLEC lines have increased by 39%.
- The number of CLEC lines has increased by only 5% since 2004.

[37] FCC, "Local Telephone Competition: Status as of December 31, 2004," July 2005, Table 6.

Table 1 Florida Access Line Comparison													
	2002			2003			2004			2005			Increase
	Res	Bus	Total	Res	Bus	Total	Res	Bus	Total	Res	Bus	Total	over 2002
ILECs	7,513,073	2,748,419	10,261,492	7,203,749	2,688,870	9,892,619	6,898,792	2,925,322	9,824,114	6,641,069	2,780,121	9,421,190	<8%>
CLECs	546,040	959,294	1,505,334	726,638	1,143,936	1,870,574	730,094	1,255,781	1,985,875	629,869	1,456,162	2,086,031	39%
Total	8,059,113	3,707,713	11,766,826	7,930,387	3,832,806	11,763,193	7,628,886	4,181,103	11,809,989	7,270,938	4,236,283	11,507,221	<2%>

Source: Responses to FPSC data request.

3. CLEC Market Penetration by ILEC Service Area

Table 2 provides a breakdown of ILEC access lines by the three major ILEC service areas and a total line count for the rural ILECs (ALLTEL, Frontier, GT Com, ITS, Northeast Florida, Smart City, and TDS/Quincy). The rural ILECs' lines are combined to preserve the confidentiality of CLEC lines. CLECs show the heaviest market penetration in BellSouth's territory, followed by the territories of Verizon and Sprint, then the rural ILECs.

Table 2 Florida CLEC Market Penetration by ILEC Service Territory as of May 31, 2005												
	ILEC			CLEC			Total			CLEC Share		
ILEC	**Res**	**Bus**	**Total**	**Res**	**Bus**	**Total**	**Res**	**Bus**	**Total**	**Res**	**Bus**	**Total**
BellSouth	3,599,073	1,702,423	5,301,496	551,857	953,616	1,505,473	4,150,930	2,656,039	6,806,969	13%	36%	22%
Verizon	1,488,063	525,734	2,013,797	39,266	328,006	367,272	1,527,329	853,740	2,381,069	3%	38%	15%
Sprint	1,410,818	503,002	1,913,820	36,005	170,668	206,673	1,446,823	673,670	2,120,493	2%	25%	10%
Rural ILEC	143,115	48,962	192,077	2,741	3,872	6,613	145,856	52,834	198,690	2%	7%	3%
Grand Total	6,641,069	2,780,121	9,421,190	629,869	1,456,162	2,086,031	7,270,938	4,236,283	11,507,221	9%	34%	18%

Source: Responses to FPSC data request.

Figure 3 shows continued growth in CLEC market share by ILEC as of May 31, 2004 and 2005. The overall CLEC market share in BellSouth's territory is much higher than that achieved in the other ILEC territories.

Figure 3

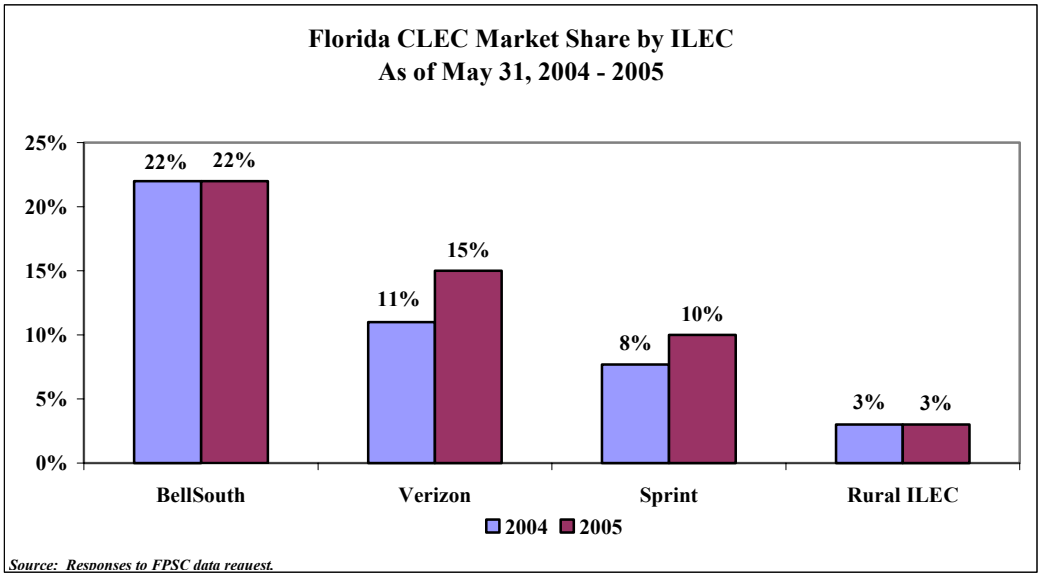
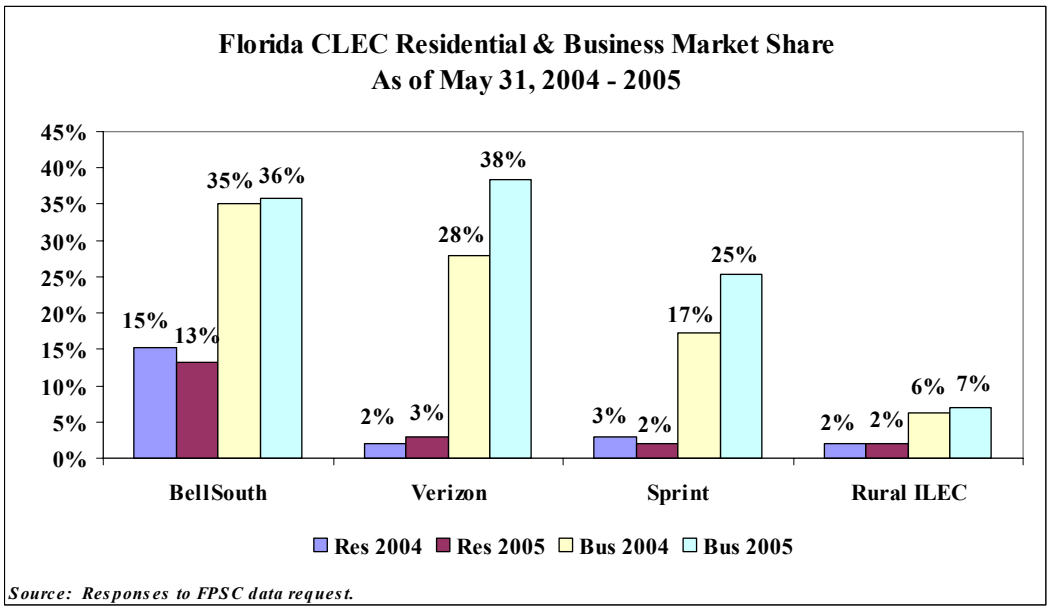


Figure 4 shows the CLEC share of the residential and business markets by ILEC as of May 31, 2004 and 2005. Substantial residential competition is taking place mainly in BellSouth's territory.

CLEC residential market share increased in Verizon's territory from 2004 to 2005 and decreased in both Sprint's and BellSouth's territories during the period. CLECs made significant gains in business market share in Sprint's and Verizon's territories but only minimal gains in BellSouth's territory. CLEC residential market share in rural ILEC territories remained flat (with a decrease of actual access lines) but gained 1% of the rural ILEC business market.

Figure 4



4. Competitive Presence by Exchange

Table 3 shows that, in 2005, there are more exchanges with at least one CLEC provider than there were in 2004. The number of exchanges with three or more competitors has decreased from 248 in 2004 to 246 in 2005. Overall, approximately 97% of Florida exchanges have at least one CLEC competitor.

Table 3 Summary of Florida Exchanges With & Without CLEC Providers			
	2003	**2004**	**2005**
Exchanges with one CLEC provider	15	13	17
Exchanges with two CLEC providers	11	3	6
Exchanges with three or more CLEC providers	243	248	246
Exchanges without a CLEC provider	8	13	8
Exchanges without a business CLEC provider	57	56	48
Exchanges without a residential CLEC provider	13	17	16
Total exchanges in Florida	277	277	277

Source: Responses to FPSC data request.

As the following tables indicate, CLECs concentrate on larger metropolitan areas. As discussed in our 2004 report, the primary reason for this is that higher population densities improve economies of scale. The majority of Florida's most populated exchanges are in BellSouth's territory. These economies are reflected in BellSouth's costs and resulting UNE rates and explain, in part, why the top ten exchanges shown in Table 4 are in BellSouth's territory. The Tampa and Tallahassee exchanges, the largest exchanges in Verizon's and Sprint's territories respectively, have been included in Table 4 for comparison purposes.

Table 4 Florida Exchanges with the Most CLEC Providers						
	Residential		**Business**		**Total CLEC Providers**	
Exchange	**(2004)**	**(2005)**	**(2004)**	**(2005)**	**(2004)**	**(2005)**
Miami	85	91	81	84	110	115
West Palm Beach	82	87	67	73	105	111
Fort Lauderdale	82	87	70	74	106	110
Hollywood	77	83	59	65	100	110
Orlando	76	80	62	64	104	110
Jacksonville	76	79	64	62	103	103
Coral Springs	77	83	61	63	99	103
North Dade	71	78	57	57	92	99
Perrine	66	70	52	51	87	89
Boca Raton	57	64	53	60	79	88
Tampa (Verizon)	40	40	29	36	58	60
Tallahassee (Sprint)	39	44	24	30	50	54

Source: Responses to FPSC data request.

Table 5 further illustrates the concentration of CLECs in the larger metropolitan areas. This table shows that 58% of CLEC access lines are concentrated in the ten largest Florida exchanges, whereas these exchanges serve 44% of total access lines in Florida. Six of the largest exchanges are in BellSouth's territory, three are in Verizon's, and one is in Sprint's.

Table 5 Ten Largest Exchanges CLEC Market Share by Customer Type											
			Total Lines in Exchange			CLEC Total			CLEC Market Share		
	Exchange	ILEC	Res	Bus	Total	Res	Bus	Total	Res	Bus	Total
1	Miami	BellSouth	623,180	550,981	1,174,161	101,725	190,072	291,797	16%	34%	25%
2	Tampa	Verizon	434,900	373,180	808,080	24,057	172,765	196,822	6%	46%	24%
3	Fort Lauderdale	BellSouth	281,168	254,390	535,558	49,391	104,907	154,298	18%	41%	29%
4	Jacksonville	BellSouth	281,591	231,965	513,556	43,118	87,024	130,142	15%	38%	25%
5	West Palm Beach	BellSouth	312,198	170,605	482,803	36,497	53,447	89,944	12%	31%	19%
6	Orlando	BellSouth	247,219	246,653	493,872	34,105	116,599	150,704	14%	47%	31%
7	Hollywood	BellSouth	207,810	96,741	304,551	46,024	37,246	83,270	22%	39%	27%
8	St. Petersburg	Verizon	194,645	106,357	301,002	1,917	38,883	40,800	1%	37%	14%
9	Clearwater	Verizon	183,500	98,863	282,363	4,780	40,950	45,730	3%	41%	16%
10	Tallahassee	Sprint	93,609	107,742	201,351	3,815	23,601	27,416	4%	22%	14%
Grand Total			2,859,820	2,237,477	5,097,297	345,429	865,494	1,210,923	12%	39%	24%
% of Total Lines in FL			39%	53%	44%	55%	59%	58%			

Source: Responses to FPSC data request.

A complete listing of the number of CLEC providers by exchange is shown in Appendix B. The listing indicates that the number of CLECs providing residential service decreased in 109 of 277 exchanges and increased in 104 exchanges. The number of CLECs providing business service increased in 162 exchanges and decreased in 42 exchanges.

Surprisingly, the number of CLEC business providers increased in Sprint's and Verizon's territories in a total of 117 exchanges and decreased in only 4 exchanges. In contrast, the number of CLEC business providers increased in 42 exchanges and decreased in 39 exchanges in BellSouth's territory.

The number of CLEC residential service providers increased in 56 (59%) of BellSouth's exchanges, while in Sprint's and Verizon's territories the number of providers declined in more cases than they increased.

C. STATUS OF COMPETITIVE MARKETS

1. Market Trends

The previous section described the current market shares of Florida ILECs and CLECs.[38] This section examines access line trends on a more disaggregated basis by residential and business, by ILEC territory, and by exchange. The section concludes with a look at trends that may impact the results of the 2006 report.

[38] Whether the competitive market is analyzed on a total basis or on a sector-by-sector basis (CLEC residential lines, ILEC business lines, etc.), it is nearly impossible to provide a complete explanation of shifts in market shares. A growing part of the competitive market consists of services (for example, wireless and VoIP) that are excluded from Commission jurisdiction. Some national data is available on these services, but there is little data available at the state level. The market share percentages provided in this report likely represent a low estimate of the competitive presence in the local market.

a. Provisioning Methods

Figure 5 shows how Florida CLECs provisioned services to their business customers in 2005. Over 80% of CLECs' business lines do not utilize ILEC switching.[39] Only 17% of the business lines use UNE-P, a decrease from the 20% in 2004. These lines, an approximate total of 247,000, will need to be provisioned using another method by March 2006.

Figure 5

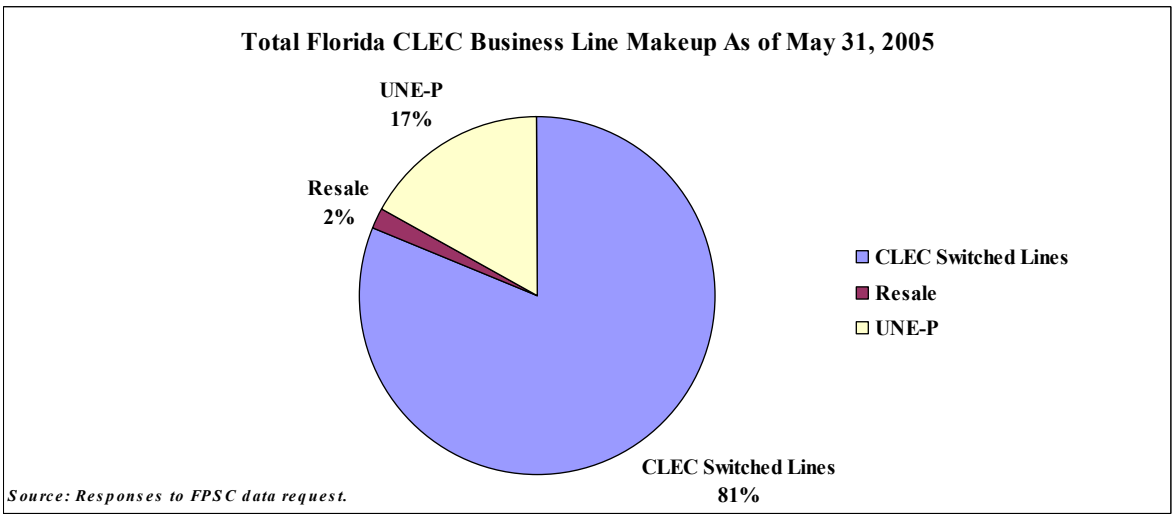
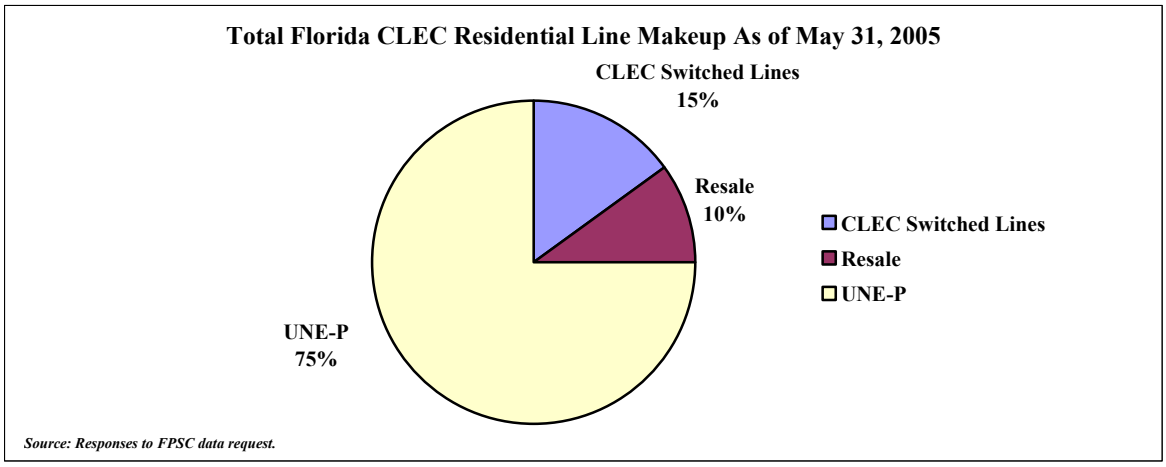


Figure 6 shows how Florida CLECs provisioned services to their residential customers in 2005. UNE-P remains the most prevalent provisioning method, at 75% of lines, down from 77% in 2004. These lines, an approximate total of 472,000, will necessarily be provisioned by another method by March 2006.

Figure 6



[39] CLEC lines that do not use ILEC switches are described in Figures 5 and 6 as "CLEC switched lines," consistent with the term used in the 2004 report.

b. Commercial Agreements

The Commission asked the CLECs whether their access lines were purchased from the ILEC under a commercial agreement or a noncommercial agreement (interconnection agreement), or they could choose N/A if the CLEC did not purchase its lines from the ILEC (the CLEC purchased its lines from another CLEC or carrier's carrier).[40] Amendments to interconnection agreements (for example, to incorporate TRRO changes) are filed with the Commission; however, commercial agreements are not currently filed with the Commission.

The total number of CLEC lines purchased under an agreement with the ILEC are 1,328,988, or approximately 64% of all CLEC lines. ILECs and CLECs reported that the following:

- Of lines purchased under an agreement, approximately 34% of residential lines and 25% of business lines were purchased under a commercial agreement.
- Overall, of lines purchased under an agreement, 29% were purchased under a commercial agreement.
- The majority of these lines were purchased from BellSouth, which is not surprising because BellSouth is, by far, the largest UNE-P provider.

Table 6 CLEC Lines by ILEC Territory & Agreement Type

	Commercial			Non-Commercial			Grand Total		
ILEC	**Res**	**Bus**	**Total**	**Res**	**Bus**	**Total**	**Res**	**Bus**	**Total**
BellSouth	192,932	148,963	341,895	279,111	294,117	573,228	472,043	443,080	915,123
Verizon	729	28,976	29,705	35,140	158,338	193,478	35,869	187,314	223,183
Sprint	3,173	8,737	11,910	63,501	113,845	177,346	66,674	122,582	189,256
Rural ILEC				1,212	214	1,426	1,212	214	1,426
Grand Total	196,834	186,676	383,510	378,964	566,514	945,478	575,798	753,190	1,328,988

Source: Responses to FPSC data request.

c. Residential and Business Access Line Trends

Total residential access lines declined 5% in 2005 compared to 4% in 2004. Total business access lines continued to increase but at a much slower rate than the previous year. The increase slowed from 9% in 2004 to 1% in 2005. This data is shown in Figure 7.

[40] Because commercial agreements are only between an ILEC and CLEC, it is possible for an agreement to include elements other than those utilized in a UNE-P-type arrangement. Commercial and non-commercial agreements account for approximately 64% of total CLEC lines.

Figure 7

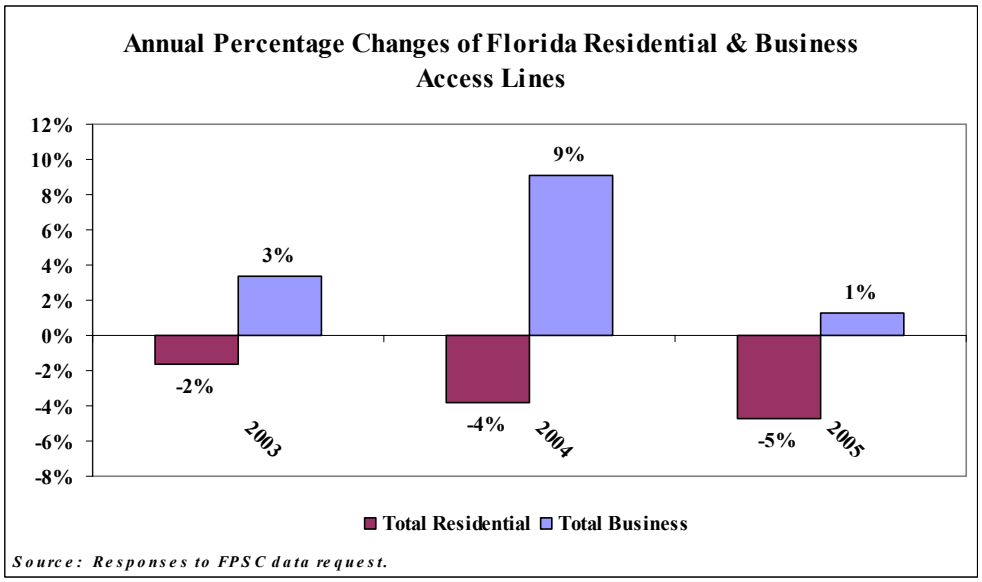
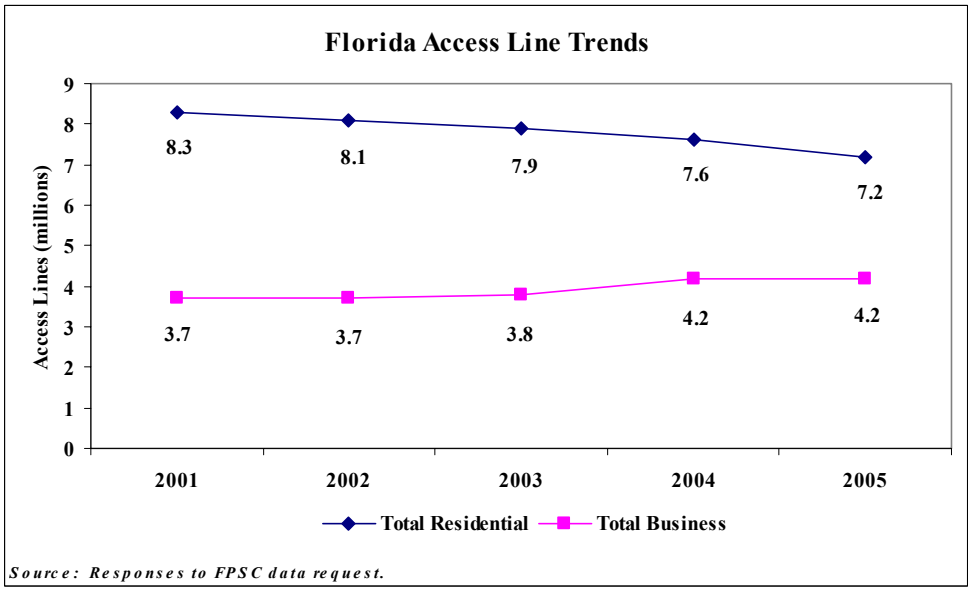


Figure 8 presents this data in absolute line counts. Since 2001, residential access lines declined by 1,026,762, while business lines increased by 502,101.

Figure 8



d. CLEC Line Trends

As shown in Figure 9, the CLEC residential growth rate went from 0% in 2004 to -14% in 2005. The growth rate for CLEC business lines increased from 10% to 16% in 2005, reversing a declining growth rate in 2004.

Figure 9

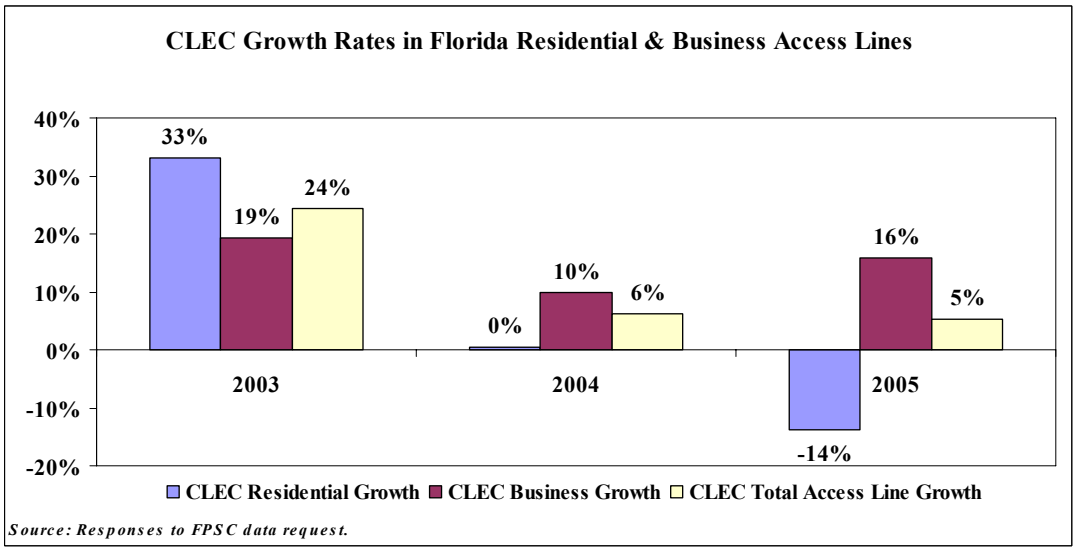
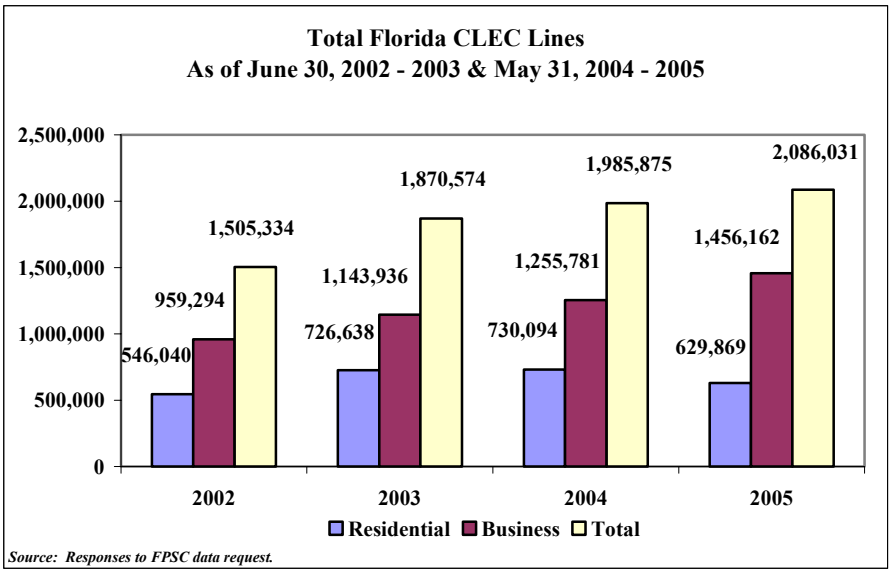


Figure 10 presents CLEC residential and business access line counts from 2002 through 2005. It shows steady growth in CLEC residential lines until 2005 and steady growth in CLEC business lines through 2005.

Figure 10



e. Individual ILEC and CLEC Access Line Trend Comparison

Figure 11 presents residential access line trends individually for BellSouth, Sprint, and Verizon, as well as for rural ILECs and CLECs. The aggregate trend for ILEC residential access lines has been steadily decreasing since the 2002 reporting period, however; the rural ILECs

actually gained lines during the most recent period.[41] CLECs experienced a decline in residential access lines of approximately 13.7%.

Figure 11

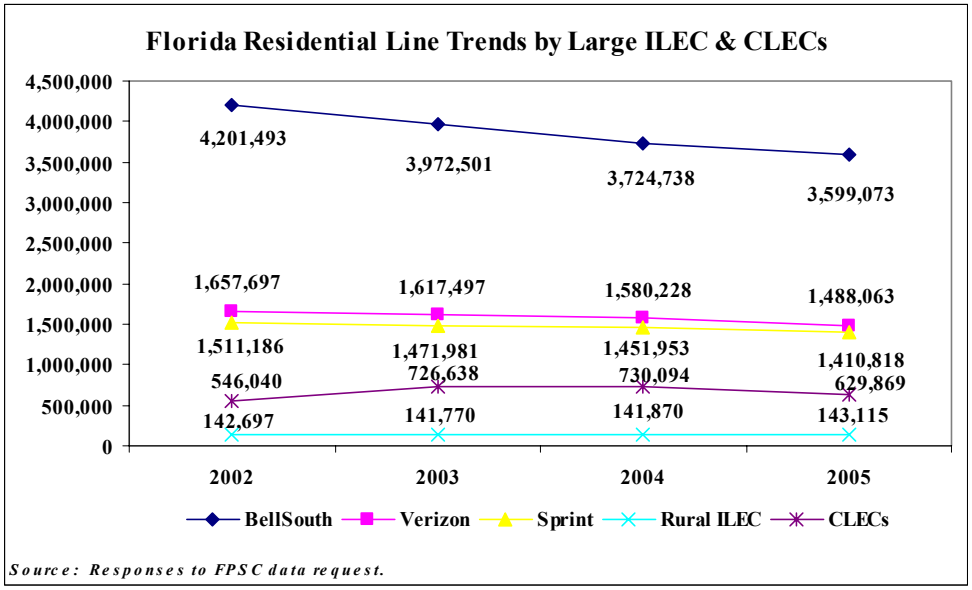
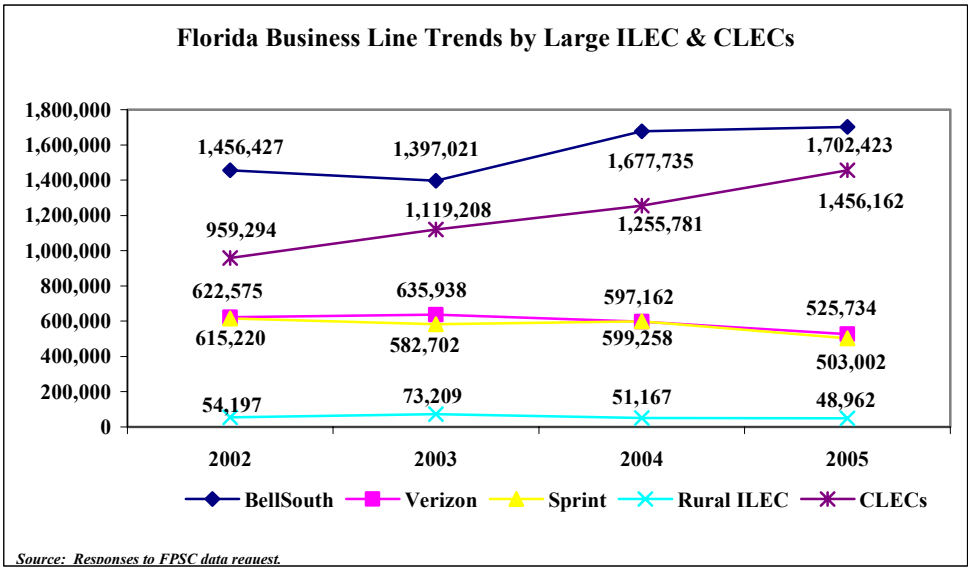


Figure 12 presents business access line trends individually for BellSouth, Sprint, and Verizon and in the aggregate for the rural ILECs and the CLECs. While CLEC and total industry business access lines have steadily increased since 2002 (Table 1), individual ILECs have not always followed the industry trend. BellSouth actually lost business access lines in 2003 and then substantially rebounded in 2004. In 2005, BellSouth's business access line growth was positive at about 1.5%. Verizon experienced slight business access line growth in 2003, but declined in 2004 and again in 2005 by approximately 12%. Sprint had a significant business access line loss in 2003, a slight gain in 2004, and a decline of about 16% in 2005. This reflects nearly six times as many lines lost by Sprint in the 2005 period compared with lines gained in the previous period.

[41] In examining trend data, staff identified an anomaly in Sprint's 2004 residential access line data. Sprint determined that it under reported its 2004 residential access lines by 94,000. Figure 11 reflects the corrected information for 2004.

Figure 12



f. Exchange Analysis

Appendix C, Percentage of CLEC Access Lines By Exchange, indicates the percentage of CLEC access lines for residential and business classifications by exchange. The data is presented in increments of five percentage points to preserve confidentiality. The information presented in Appendix C is somewhat imprecise but gives a reasonable representation of the way CLEC competition evolved in 2005.[42] Since actual access line data is filed confidentially by many companies, it must be considered in a summary manner that does not compromise that confidentiality. The following analysis describes other aspects of access lines, focusing on differences between ILEC territories.

i. Business Access Lines

CLEC business access lines increased in the aggregate in 2005 (Table 1), and that increase occurred in 183, or 66%, of all (277) exchanges. CLECs experienced business access line growth in 89 of Sprint's 104 exchanges, 70 of 95 BellSouth exchanges, and 21 of 24 Verizon exchanges.

In exchanges where growth occurred:

- CLEC access lines exceeded 1,000 in 79 of those exchanges,
- CLEC access lines exceeded 10,000 lines in 14 exchanges;
  - Five in BellSouth territory,
  - Five in Verizon territory, and

[42] Because any gains or losses in CLEC access lines by exchange are presented in increments of 5%, it is possible that changes within those increments could be occurring that are not reflected in this presentation of the material. In many cases, the actual number of CLEC and ILEC access lines in each exchange are filed confidentially and, therefore, cannot be presented in the report.

- Four in Sprint territory.

In 2004, only ten exchanges exceeded 10,000 CLEC access lines. Of the four additional exchanges to exceed 10,000 access lines in 2005, one was in BellSouth's territory, two in Sprint's territory, and one in Verizon's territory.

CLEC business access lines declined in only 42 exchanges statewide in 2005. The following is true of those exchanges:

- Ten have greater than 1,000 CLEC access lines,
- None had more than 10,000 CLEC access lines,
- Twenty-five are in BellSouth's territory, nine in Sprint's territory, and three in Verizon's territory.

ii. Residential Access Lines

CLEC residential access lines declined in the aggregate for 2005, and that decline was widespread, occurring in 197, or 71%, of all exchanges.

- Losses occurred in 38 exchanges where 2004 CLEC line totals were between 1,000 and 10,000,
- Losses occurred in eight exchanges where 2004 CLEC line totals exceeded 10,000 access lines.
- Losses exceeded 1,000 access lines in 22 exchanges and exceeded 10,000 lines in three exchanges.
- All 22 exchanges in which line losses exceeded 1,000 lines are in BellSouth's territory.

CLECs gained residential access lines in only 45 exchanges, or 16%, of total exchanges in 2005.

- Twenty-five of those exchanges were in Sprint territory, seven were in BellSouth territory, six were in Verizon territory, and seven exchanges were served by rural ILECs.
- CLEC served residential access lines exceeded 1,000 lines in nine exchanges.
- CLEC served residential access lines exceeded 10,000 in only one exchange.

g. Summary Analysis of Access Line Trends

i. Business

CLECs continued a strong showing in competing for business customers, particularly in larger exchanges. While CLEC business lines grew in 2005, the absolute increase was smaller than the increase in 2004. CLECs were more successful in Sprint and Verizon territories, while BellSouth somewhat stabilized its business customer base by regaining more than 1,000 access lines in each of eight exchanges.

Business needs vary with the size and type of business. Some businesses might have elected a wireless-only alternative, a wireline-wireless combination, or transitioned to VoIP. It is likely that some CLECs have begun to serve very high volume customers using high capacity data lines that employ VoIP to meet voice communications needs. As discussed earlier, VoIP is not regulated in Florida, and it is difficult to quantify this impact. Some CLECs offering VoIP service have included these lines in their responses to the data request; however, the subscribers of some VoIP providers are not included because the providers are not certificated CLECs.[43] For example, Vonage, a leading provider of VoIP service targeting residential and small business customers, is not a certificated CLEC and its lines are not included in this report. In addition to several providers like Vonage targeting small business customers, there are also several VoIP providers that are marketing their services to large business users.[44]

The exchange level analysis revealed that more widespread CLEC access line growth for business customers occurred in 2005 in Sprint and Verizon territories than in BellSouth territory. While CLECs have been serving significant numbers of business customers in Sprint and Verizon service areas for some time, the ability to profitably serve both business and residential customers has historically been more attractive in BellSouth territory. That is because BellSouth's territory tends to be more densely populated and because BellSouth's UNE rates were lower and have been in place longer than those of Verizon and Sprint. The elimination of UNE-P removes what may have been perceived as a strong incentive to concentrate efforts in BellSouth territory. In addition, there may also be a maturation of the market that has occurred in BellSouth territory, such that the cost of gaining additional business customers has reached the point that CLECs are now refocusing their efforts on less saturated markets. Intensified efforts by BellSouth to regain customers may also be a major contributing factor. If CLECs are able to continue to make gains in business access lines in 2006, it will be of particular interest to see in which ILEC territories those gains are made.

ii. Residential

Both CLEC and ILEC residential lines declined in 2005. It is possible that some of these customers may have moved to other CLECs, replaced wireline with wireless, or moved to VoIP providers, such as Lingo, or to cable-based VoIP providers. ILEC residential lines continued

[43] It is likely that there are inconsistencies among CLECs in the reporting of these services. It is uncertain as to the magnitude of this inconsistency within the universe of certificated CLECs. It is likely to be small for the current reporting period.

[44] For example, a search on Google produced a link to a website that offers a Florida business of any size an opportunity to receive a quote from any one of several VoIP providers (bridgeone broadband marketplace website, <http://www.broadbandlocators.com/voice-over-ip-voip/Florida.php> (September 1, 2005).

their decline, although the rate of decline slowed. It is possible that the rate of decline slowed because CLECs were not able to add new customers or to continue to serve existing customers using UNE-P if they had moved. In general, ILEC residential customers have the same intermodal alternatives as CLEC residential customers: wireless and VoIP. Customers with second lines for Internet service also may disconnect the second line and replace it with DSL or cable modem. Additionally, Florida, with its many part-time residents and second homes, may be an especially fertile market for wireless substitution.

The exchange level analysis clearly demonstrates an interesting point. Since the vast majority of UNE-P lines occur in BellSouth territory, it is not surprising that the greatest erosion of CLEC market share for residential subscribers has been observed in BellSouth territory. An additional factor is the likelihood of a stepped up marketing campaign by BellSouth to regain market share and to place a greater emphasis on packaged offerings that include DSL service. DSL made strong gains in 2005, and much of that gain was reflected in areas of the state served primarily by BellSouth.[45]

2. Looking to the Future

a. Potential Effects of the TRRO and of Industry Consolidation

Approximately 140 CLECs responded to questions in the data request that asked about the effects of the TRRO. For many of these CLECs, the TRRO was not an issue because they are not UNE-P-based. UNE-P-based CLECs reported several different responses to the effect of the TRRO, including that they were evaluating their business plans; turning to resale, UNE-L, or commercial agreements; retreating from part of their market; or not offering service to new customers. CLECs reporting that they are not offering service to new customers because of the TRRO included AT&T ("ceased actively marketing local phone service"), Talk America, Access One Communications, and Momentum Telephone.[46] Two of the CLECs, Cat Communications International, Inc. and Cinergy Communications Company, reported leaving Florida entirely.[47] MCI reported that it "has reduced its marketing and advertising efforts (including telemarketing) and instituted price increases to its customers."[48] One CLEC, Alternative Phone, Inc., reported that it is closing its division that offers service to small and medium-sized businesses in Ocala. Alternative Phone, Inc. plans to raise prices and return to resale.[49] Network Telephone,[50] primarily a facilities-based CLEC, provided a more detailed description of the changes it is implementing because of the TRRO:

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[45] A review by county of BEBR survey data collected on behalf of the Commission reveals that DSL subscribership increased more in counties served primarily by BellSouth than in other Florida counties. This is expected since BellSouth has more basic local service customers than the remainder of Florida ILECs.

[46] Responses to the 2005 CLEC data request of AT&T Communications of the Southern States, LLC's and TCG South Florida, Inc.'s, p. 6; Talk America Inc., p. 4; Access One Communications, p. 4; and Momentum Telecom, Inc., p. 4.

[47] Responses to the 2005 CLEC data request of Cat Communications International, Inc. page 4 and Cinergy Communications Company, p. 4.

[48] Response of MCImetro Access Transmission Services, LLC, Intermedia Communications Inc, and MCI WorldCom Network Services Inc. to the 2005 CLEC data request, p. 5.

[49] Response of Alternative Phone, Inc. to the 2005 CLEC data request, p. 4. Talk America announced plans to acquire Network Telephone on October 19, 2005.

[50] Talk America announced plans to acquire Network Telephone on October 19, 2005 "Talk America to Acquire Network Telephone," Talk America Press Release, October 19, 2005,
< https://www.talk.com/web.cgi/user/about-press-release.htm?date=2005-10-19&tabid=ata&tabid2=press> (October 21, 2005).

> Due to the increased cost, we are actively pursuing selling our network equipment and/or customer base in Gainesville. We have narrowed our UNE-P offering and changed our commission plan to reduce the sale of UNE-P products. We increased prices on many of our products to offset the increase in cost. We laid off 65 employees at our corporate location in Pensacola in anticipation of lower sales volumes due to increased limitation on our product set and due to an anticipated increase in customer churn resulting from price increases.[51]

The TRRO is not the only factor that will have a lasting effect on the industry. Recently approved (Sprint-Nextel) and announced (SBC-AT&T and Verizon-MCI) mergers and acquisitions will also affect the industry. Approximately 140 ILECs and CLECs responded to questions in the data requests relating to the possible impacts of these consolidations.

The vast majority of CLEC comments about merger impacts were that the mergers will have a negative effect on competition. A few CLECs lamented the loss of AT&T and MCI to the CLEC community. Their comments about AT&T's and MCI's mergers included "[W]e lose strong and powerful allies,"[52] "[T]he AT&Ts and MCIs of this world were the only ones with the financial wherewithal to combat the ILECs,"[53] and "[E]liminating MCI and AT&T from markets hampered by a lack of competitive alternatives and high prices increases the risk of anti-competitive conduct and above-market pricing by the dominant provider."[54] AT&T and MCI took a different view. AT&T asserted that, "[T]hese mergers will strengthen and invigorate competitors and will encourage competition from several sources."[55] MCI's position on its merger was, "[T]his transaction [Verizon/MCI merger] will create a strong, new competitor in the market place by bringing together complementary assets and capabilities."[56] Other CLECs reported that they believed mergers would have a positive effect on competition. A few of these forecast that, while the mergers may result in higher prices or fewer competitors, the competitors would be stronger and the services would be better. The ILECs that provided comments on the mergers believe that, on the whole, these mergers are, and will be, a positive development for local competition.

b. The 2006 Report on Local Competition

Data in this report is as of May 31, 2005. This is less than three months after new UNE-P arrangements became unavailable. Thus, the full impact of the TRRO is not reflected in aggregate data for the current reporting period. When next year's data is gathered, it will include no new UNE-P arrangements. To the extent that CLECs are able to retain former UNE-P customers, they will either be served through the CLECs' own switches or retained via a commercial agreement with ILECs to provide local switching. The TRRO's impacts will be more readily apparent in 2006 data. The impacts of industry consolidation may be slower to materialize because, as of late August, only the Sprint-Nextel merger had been approved. The

[51] Response of Network Telephone Corporation to the 2005 CLEC data request, p. 4.
[52] Response of 1-800-RECONEX, Inc. d/b/a USTEL to the 2005 CLEC data request, p. 4.
[53] Response of American Fiber Network, Inc. to the 2005 CLEC data request, p. 5.
[54] Response of Level 3 Communications, LLC to the 2005 CLEC data request, p. 5.
[55] Response of AT&T Communications of the Southern States, LLC; TCG South Florida, Inc. to the 2005 CLEC data request, p. 6.
[56] Response of MCImetro Access Transmission Services, LLC, Intermedia Communications Inc, and MCI WorldCom Network Services Inc. to the 2005 CLEC data request, p. 6.

effects of consolidation will be more difficult to measure than that of the TRRO because the TRRO provided specific deadline dates for its actions.

Another factor that may be seen in the 2006 Report is the implementation of "The Tele-Competition Innovation and Infrastructure Enhancement Act of 2003" (the 2003 Act). The 2003 Act was designed to provide further impetus for development of a more competitive telecommunications market in Florida. BellSouth, Sprint, and Verizon filed notice to initiate the rate changes (as specified in the Commission Order) on September 16, 2005, with an implementation date of November 1, 2005. These rate changes will reduce intrastate switched network access charges and increase basic local service rates. It appears likely that the implementation of this law will cause consumers to carefully evaluate their options for local service and may result in some consumers leaving ILECs for competitors. At the same time, raising local rates is expected to cause competitors to reevaluate where they might profitably offer service.

The CLECs and their business plans will probably be in flux for some time as a result of the elimination of UNE-P and the emergence of VoIP. The 2005-2006 period will be critical for cable and Internet-based VoIP providers attempting to gain and solidify market share. Implementation of access charge reductions and local rate increases by the large ILECs may provide an opportunity for competitors to make additional market share gains and expand product offerings. The 2006 data should provide significant insight into the eventual direction of the CLECs and local competition.

CHAPTER IV: STATUS OF ALTERNATIVE TECHNOLOGIES

In assessing nontraditional communications options, it is instructive to identify the differences between providers and the technologies employed to deliver voice services. Cable networks (and their VoIP providers) tend to be completely independent of traditional wireline networks. To some extent, wireless networks are also independent, although wireless networks depend on LEC-provided interoffice facilities to connect towers. Neither of these networks depend on the public Internet to provide services to end users.[57] To be sure, these networks interconnect with the public switched telecommunications network (PSTN) to allow every subscriber, regardless of the network used to originate or to receive a call, to communicate with other customers on other networks. However, the facilities and network infrastructure used to reach that subscriber are generally not dependent on other networks.

Separate networks, however, do not account for all current voice telephony alternatives. Some VoIP-based service providers do not own network facilities and require consumers to provide their own broadband connection to the public Internet. Thus, broadband has a special significance in the voice communications arena. Additionally, broadband has had a significance all its own as a result of the provisions of Section 706 of the 1996 Act. That section of the Act provides that, "[T]he Commission [FCC] and each State commission . . . shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . ."[58] For this reason, the availability of broadband in Florida has been a recurring feature of this report in recent years.

This chapter addresses not only the alternatives available from wireless and cable providers but also addresses alternatives made available through broadband connections. The broadband section discusses the current status of broadband availability and subscribership, various delivery platforms, and implications for voice communications via the Internet. In addition, a separate section focuses on VoIP and its current status as an alternative to cable, wireless, and wireline service.

A. WIRELESS

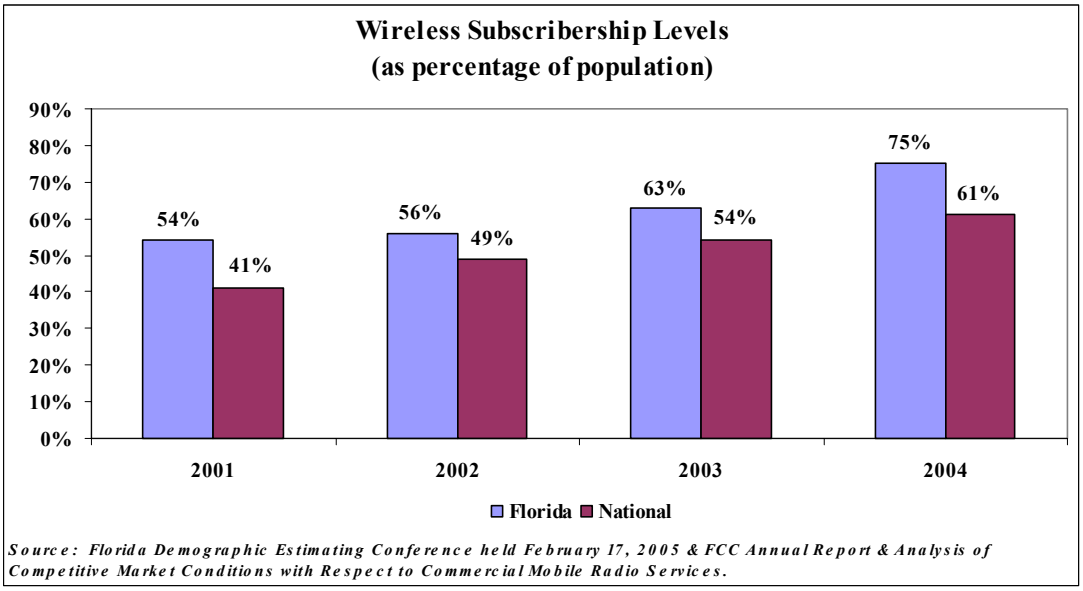
Wireless subscribership[59] continues to increase, and wireless providers continue to offer new products and plans that offer a broad range of services. Wireless service can be purchased by contract (for specific calling plans for specified time periods) or on a prepaid basis. Although prepaid service in general is associated with credit-challenged or less affluent customers, prepaid wireless is marketed differently. Virgin Mobile, which targets the young adult market, positions prepaid wireless as the "freedom to be yourself and spend what you want."[60] Prepaid wireless is also considered to be a more economical option for customers who use a smaller amount of

[57] The wireless networks may be owned wholly, or in part, by ILEC affiliates. Cingular is owned jointly by SBC and BellSouth, Verizon and Vodafone jointly own Verizon Wireless, and Sprint (the ILEC) is currently held by Sprint Nextel Corporation.
[58] 47 U.S.C. §706(a).
[59] Subscribership for wireless service is generally measured in terms of population rather than households because it is common for a single household to have multiple wireless telephones.
[60] Virgin Mobile USA website, "Pay as You Go," <http://www.virginmobileusa.com/greatrates.do:jsessionid=DXgh2KgY6nmP7g77zfrrTR2rzWDVtsHcpFnpVBwLkTj1rnF7NrL1!1859201990!-839915378!7502!1129816090826> (October 13, 2005).

minutes than a typical contract plan.[61] According to a report released by the FCC, there were more than 24 million new wireless subscribers in 2004. That brings the total number of subscribers in the U.S. to 181,105,135 as of the end of 2004, which raises the national subscribership levels to 61%, an increase of 7% since the end of 2003.[62] Subscribership for those between the ages of 20 and 49 has risen to more than 90%.[63] This increase in subscribership has also led to increasing revenues. As wireless telephone use grows, wireless companies are offering new plans with more opportunities for consumer spending. In 2004, revenues increased 14.6% to $101.9 billion, and researchers expect that number to climb to $113.1 billion in 2005, an increase of 11.2%.[64]

Wireless subscribership in Florida and nationwide has been increasing over the past several years. Florida wireless subscribership rose 21% in 2004, a jump of 2.3 million subscribers. That brings Florida's total wireless subscribership to 13,169,278 subscribers,[65] which gives Florida, at 75%,[66] a higher subscribership level than the national average of 61%.[67]

Figure 13



Source: Florida Demographic Estimating Conference held February 17, 2005 & FCC Annual Report & Analysis of Competitive Market Conditions with Respect to Commercial Mobile Radio Services.

The number of local exchange company access lines has continued to slowly decline, while Florida's wireless subscribership continues to increase. By the end of 2004, wireless subscription overtook local exchange access lines by a margin of 11%.[68]

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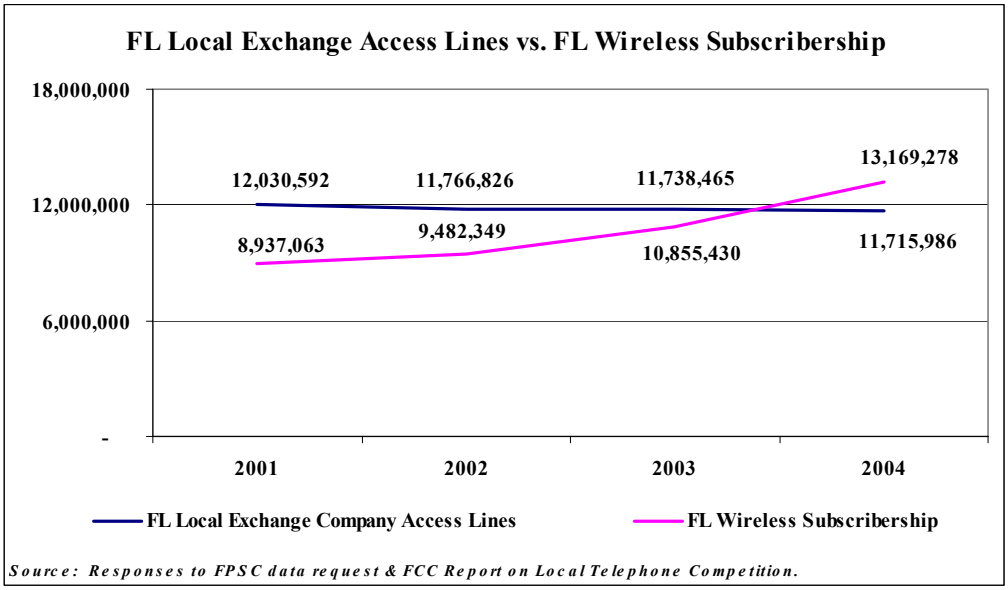
[61] Rob Pegoraro, "With Cell Plans, It's the Coverage, Not the Phone, That Counts," *washingtonpost.com*, May 13, 2005, <http://www.washingtonpost.com/wp-dyn/content/Article/2005/05/12/AR2005051200083.html> (October 13, 2005).
[62] FCC, "Local Telephone Competition: Status as of December 31, 2004," July 2005, Table 13.
[63] FCC, "Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services," September 30, 2002, p. 72.
[64] Sharon Grace, "Spending on Telecom Transport Services to Reach $365 Billion by 2008," *TIA Online Press Release*, March 1, 2005. <http://www.tiaonline.org/media/press_releases/index.cfm?parelease=05-09> (March 3, 2005).
[65] FCC, "Local Telephone Competition: Status as of December 31, 2004," July 2005, Table 13.
[66] Calculated using Florida population information from the Florida Demographic Estimating Conference held February 17, 2005, and wireless subscribership information from the FCC report on Local Telephone Competition: Status as of December 31, 2004, July 2005.
[67] Calculated using U.S. population information from the U.S. Census Bureau & wireless subscribership information from the FCC report on Local Telephone Competition: Status as of December 31, 2004, July 2005.
[68] FCC, "Local Telephone Competition: Status as of December 31, 2004," July 2005, Table 13 and responses to Commission data request, Table 1.

CIBC World Markets, a financial analysis research group reported that, "At the end of 2004, there were more wireless subscribers than wireline subscribers in the U.S. – 182 million versus 176 million access lines – while in 1999 wireless subs[cribers] only totaled 30% of wireline." They also predict that over the next four years 20 million wirelines will be replaced with wireless telephones.[69] This trend continues to be of interest to Floridians. According to a telephone survey conducted by the University of Florida's BEBR, approximately one third of all respondents (existing wireline subscribers) were considering disconnecting their home telephones and using only a wireless telephone. The percentage of respondents considering the wireless-only option has remained at or near this level for the last two years.

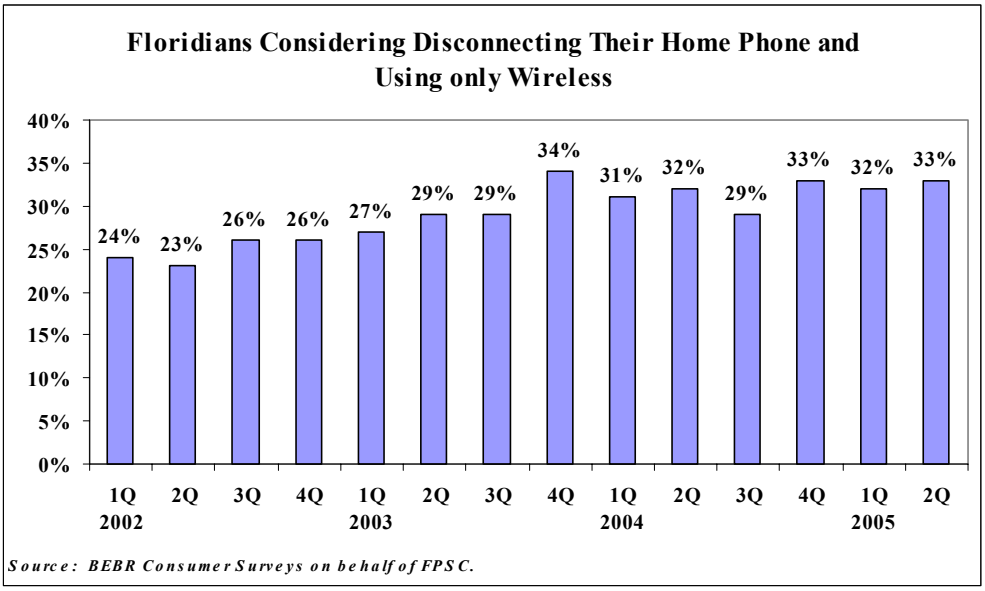
Figure 14



According to the Wall Street Journal, while cutting the cord appears to be a growing trend, the growth is slower than what was once expected. Some wireless-only customers are even considering switching back to wirelines. Their concerns include poor wireless coverage, use of wirelines for Internet service and security systems, affordable local telephone lines, and no wireless directories.[70] At present, most people who subscribe to wireless service are using it as a complement to their traditional wireline service instead of as a substitute. They find that having both services provides them with all of the features and options they need.

[69] Horan et.al., "Transfer of Coverage: We Favor Wireless and Cable Over Wireline," *CIBC World Markets*, May 3, 2005, p. 22.
[70] Christopher Rhoads, "Cutting the Phone Cord Isn't as Popular as Once Predicted," *The Wall Street Journal*, June 2, 2005. <http://online.wsj.com/article/0,,SB111766944518948757,00.html> (June 9, 2005).

Figure 15



Research shows that the younger generation represents the majority of those who are wireless-only customers.[71] Many of these younger customers have never had their own wireline telephone. However, the younger generation is not the only group that may find traditional wireline service unnecessary. The number of households that rely solely on wireless telephones was approximately 6.1% at the end of 2004.[72] In 2004, traditional access lines decreased by 2.8% nationally and by 1.2% in Florida.[73] While this displacement cannot all be attributed to wireless telephones, the wireless industry is certainly having an impact on traditional wireline carriers. A report released by Raymond James affirmed, "We expect wireless substitution to have around a 25% market share of households by 2010, underscored by demographic data showing over 50% of U.S. households are one and two person, which we believe represent the best wireless replacement candidates regardless of age."[74] Wireless minutes of use for 2004 were 40% of the total market minutes of use and are expected to surpass 50% by the end of 2005.[75] A report released by the FCC stated that the average monthly wireless minutes of use increased from 500 minutes at the end of 2003 to 680 minutes at the end of 2004.[76]

Both wireline and cable companies have recognized the desirability of wireless communications to consumers. In an effort to appeal to those customers, most major wireline companies are now bundling and marketing the quadruple play, a package that includes telephone, television, Internet, and wireless services. Cable companies are also beginning to partner with wireless companies. Time Warner Cable recently announced a deal with Sprint that

[71] Ibid.
[72] Blumberg et. al., "The Prevalence and Impact of Wireless Substitution: Updated Data from the 2004 National Health Institute Survey," Center for Disease Control and Prevention. Presented May 14, 2005 at the Annual conference of the American Association for Public Opinion Research.
[73] FCC, "Local Telephone Competition: Status as of December 31, 2004," July 2005, percentages calculated from Tables 1 and 6.
[74] Frank Louthan IV and Ben Gordon, "Reassessing the Impact of Access Lines on Wireless Carriers," *Raymond James Equity Research*, July 11, 2005.
[75] Horan et al., "Transfer of Coverage: We Favor Wireless and Cable Over Wireline," *CIBC World Markets,* May 3, 2005, p.21.
[76] FCC, "Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services," September 30, 2006, p. 63.

will enable them to offer voice, video, broadband, and wireless voice services packaged together.[77]

A concern consumers may have had when considering wireless-only service is the lack of access to Enhanced 911 (E911) services. E911 service provides emergency dispatchers with location-specific information on wireless 911 calls. The Wall Street Journal reported that, "With the explosive growth of wireless technology, more than one third of the 190 million calls placed to 911 each year now come from cell phones."[78] The FCC implemented a two-phase process requiring wireless companies to provide E911 capability, which is scheduled to be completed by December 31, 2005. However, many companies are having problems meeting the December 31 deadline. The FCC has reacted by issuing limited waivers of Phase II deployment rules to a number of carriers based on revised reports and schedules.[79] Public safety officials say that, even if the majority of wireless carriers were able to meet this deadline, only 41% of the nation's 6,000 call centers can precisely locate wireless telephones.[80] They estimate that it would cost $8 billion and take at least four more years to make the nation completely capable for wireless 911.[81] Florida is making progress on its undertaking of making the state E911 capable. Approximately 24% of the 67 counties have completed Phase II and another 40% have partially completed Phase II. The majority of counties categorized as medium or large have made the most progress, but there are several rural counties that have made significant progress or that have completed the process altogether.[82]

Wireless carriers are using two main methods to provide location information from wireless telephones to dispatchers. One method involves Global Positioning Systems (GPS) satellites. Companies are selling telephones that contain a GPS chip that can transport the location of the telephone to the emergency services call center. This requires that customers purchase a telephone with GPS capability and that the call centers be upgraded to receive the specific longitude and latitude data from the chip. The other method being used is called triangulation. Triangulation measures the distance of a signal from three different wireless towers. The problem with this method, especially in rural areas, is that towers are built in straight lines or not built at all. This makes it difficult to get an accurate reading. The process of upgrading telephones and systems to be E911 capable has proven to be a costly and time-consuming endeavor. However, it may bring more consumers one step closer to viewing wireless telephones as a viable substitute for wireline telephones.

B. CABLE

Residential cable telephony customers totaled three million at year-end 2004, the majority of these circuit-switched.[83] As VoIP service is introduced, cable companies previously

[77] Lynn Bartos, "Wireless Minutes Clinch the Deal," *Ipsos-Insight*, May 25, 2005, <http://www.ipsos-insight.com/act_dsp_view_pdf.aspx?name=mr050525-2.pdf&id=2684> (July 12, 2005).
[78] Christopher Rhoads, "Cutting the Phone Cord Isn't as Popular as Once Predicted," *The Wall Street Journal*, June 2, 2005, <http://online.wsj.com/article/0,,SB111766944518948757,00.html> (June 9, 2005).
[79] FCC, 911 Services Page, <http://www.fcc.gov/911/enhanced/> (July 5, 2005).
[80] Christopher Rhoads, "Cutting the Phone Cord Isn't as Popular as Once Predicted," *The Wall Street Journal,* June 2, 2005. <http://online.wsj.com/article/0,,SB111766944518948757,00.html> (June 9, 2005).
[81] Ibid.
[82] Florida Wireless 911 Board Phase I and Phase II Implementation Status, <http://fcn.state.fl.us/dms/e911/docs/wirelessstatussheet.xls> (July 18, 2005).
[83] NCTA Industry Overview, Statistics & Resources, <http://www.ncta.com/Docs/PageContent.cfm?pageID=86> (August 9, 2005).

engaged in circuit-switched voice service are diverting capital and marketing efforts toward the IP-based services. Intermodal competition, as it relates to the cable industry, has advanced on two major fronts. Cable multiple service operators (MSOs) have continued to expand their offerings of Internet voice service, challenging the markets historically covered by ILECs. Meanwhile, Verizon, BellSouth, and SBC have made significant progress toward the goal of offering complete video solutions to rival those of the MSO community. (For more discussion on the ILECs' entry into video, see Section C.3(b), Fiber, of this chapter.)

The cable industry is at a more advanced stage in its effort to enter competitor territory. Much of the infrastructure needed for the delivery of VoIP services was implemented with the fiber optic network and capacity upgrades, which allowed MSOs to enter the broadband data market.[84] Most major cable providers have now made the incremental investments in the equipment needed to switch IP-based voice traffic. In addition, they have established relationships with Internet backbone providers,[85] conducted market trials, and, in most cases, entered the market with a voice offering. The following is a brief status report on MSO offerings of VoIP service as of mid-year 2005. (For more VoIP-specific analysis, see Section D, Voice over Internet Protocol).

- Time Warner Cable, the current cable VoIP leader in terms of total subscribers, added 242,000 Digital Phone subscribers in the second quarter of 2005 for a total of 614,000 nationwide subscribers, or 3.2% of all households passed by the Time Warner Cable network.[86] The Digital Phone roll out in each of Time Warner Cable's 31 divisions across the country was completed by December 2004.

- Comcast, which just initiated its VoIP service, plans to expand availability for its Digital Voice offering to 20 markets and 15 million homes by year-end 2005. All Comcast markets, approximately 40 million homes, are expected to have the service available by year-end 2006.[87] Nationwide, subscribers to the service numbered approximately 22,000 at mid-year, and Comcast expects to hit 250,000 by year-end 2005, with another one million subscribers added in 2006.[88]

- Cox Communications added 89,000 voice subscribers in the second quarter of 2005, for a nationwide total of 1.5 million telephony customers.[89] The majority of Cox' customer base was acquired as a result of the company's traditional circuit-switched voice offering. Cox is transitioning its customer base to VoIP technology over time and plans to launch VoIP service in its Central Florida and Gulf Coast Florida regions before the end of 2005.[90]

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[84] Cable industry infrastructure expenditures for the past decade are listed at approximately $100 billion. *Kagan Research, LLC Broadband Financial Databook, 2004* as referenced by the National Cable and Telecommunications Association 2005 Mid-Year Industry Overview, p.7, <http://www.ncta.com/industry_overview/CableMid-YearOverview05FINAL.pdf>.
[85] Backbone providers supply access to high-speed transmission lines that connect ISPs to the Internet.
[86] "Trending Schedules," Time Warner Cable 2Q 2005 Earnings Release, <http://ir.timewarner.com/trending.cfm?ptype=1> (August 3, 2005).
[87] "Comcast Launches IP-Enabled Phone Service in Metro Portland, Oregon and Vancouver, Washington," *Comcast Press Release,* June 24, 2005 <http://www.cmcsk.com/phoenix.zhtml?c=118591&p=irol-newsArticle&ID=738204&highlight=> (September 27, 2005).
[88] Comcast 2Q 2005 Conference Call, *Comcast Webcast*, Slide 11, <http://www.cmcsk.com> (August 2, 2005).
[89] "Telecommunications and Cable Services*," UBS Investment Research*, August 16, 2005, p.17.
[90] Tim Horan, "Data Times." *CIBC World Markets*, August 2, 2005.

- Cablevision has the highest VoIP penetration rate among major cable providers. Of the households passed by Cablevision's cable network, 10.7% were subscribed to its VoIP service at the end of the second quarter of 2005, up from 2.7% one year earlier.[91] At mid-year 2005, Cablevision's Optimum Voice service had more than 478,000 VoIP customers, second only to the larger Time Warner Cable.

These statistics indicate that rapid growth in cable VoIP lines is occurring, but that there are relatively low penetration levels at this stage of development. Comcast, for example, reported 1.2 million total voice customers in the second quarter of 2005, the vast majority using circuit-switched service. New VoIP subscribers added in the quarter totaled 15,000, while total voice subscribers rose only 2,000 for the quarter, reflecting a drop-off in circuit-switched subscribers.[92]

Recently both Comcast and Cox Communications have initiated VoIP-based service to Florida markets. Bright House Network also offers residential VoIP service in Florida.[93] Comcast has begun offering service in all of Collier County and approximately half of Lee County, including Bonita Springs. The company anticipates that service will be available in all of Lee County by year-end.[94] Cox Communications began offering its Digital Voice Service to approximately 144,000 businesses and residences in Alachua County and Marion County in September of this year.[95]

Several other events have recently developed that will affect the progress of the cable market. One interesting trend in the cable television industry is privatization. Three of the eight largest cable operators have made the switch or announced plans to move from a publicly traded company to a private entity. Cox Communications was the first, going private in 2004. Since then, both Cablevision Systems and Insight Communications have announced plans to become private operations. This trend is seen as a response to the increasingly complex nature of the cable industry as it prepares to compete with telecommunications carriers in both the broadband and voice markets. Reasons given by those looking to privatize include the ability to quickly invest capital as needed to meet competitive challenges, to make long term infrastructure upgrades, and to do so without the need to reveal competitive strategy or to continually seek public shareholder acceptance.[96]

The Supreme Court recently ruled on a case that will likely have immediate implications for the cable industry and their broadband operations and possibly longer term effects for telecommunications carriers. On June 27, 2005, the Supreme Court ruled in favor of the FCC and the National Cable & Telecommunications Association and against Brand X Internet services, deciding that cable companies that sell broadband Internet service do not provide telecommunications services and, hence, are exempt from mandatory common-carrier regulation

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[91] "Cablevision Systems Corporation Reports Second Quarter 2005 Results; Continued Customer Growth Drives Double Digit Increase in Cablevision Revenue and AOCF," <http://www.cablevision.com/index.jhtml?pageType=financial_news> (August 9, 2005).
[92] "Comcast Reports Second Quarter 2005 Results," *Comcast Press Release*, August 2, 2005, <http://www.cmcsk.com/phoenix.zhtml?c=118591&p=irol.newsArticle&ID=738204&highlight=> (October 13, 2005).
[93] Bright House Network Information Service, LLC, is a certificated CLEC; however, it does not offer VoIP service in Florida. Bright House offers VoIP service through its uncertificated cable affiliate, Bright House Networks, LLC.
[94] "Comcast Launches Phone Service in Southwest Florida," *Comcast Press Release*, August 23, 2005.
[95] Cindy Swirko, "Digital Phone Service Offered in Cox Bundle," *Gainesville Sun Online,* September 13, 2005, <http://www.gainesville.com/apps/pbcs.dll/article?AID=/20050913/LOCAL/209130308&SearchID=73220943312478> (September 27, 2005).
[96] Peter Grant, "Cable Systems' New Weapon in Phone Battle: Going Private," *The Wall Street Journal*, June 21, 2005. p. B1.

under Title II of the Communications Act.[97] Therefore, cable companies are not required to allow independent ISPs access to their facilities. The Supreme Court decision did, however, reiterate the limited discretion of the FCC in dealing with the treatment of both cable and DSL services. On September 23, 2005, the FCC released a Report and Order and Notice of Proposed Rulemaking (NPRM) that also classified wireline broadband Internet access services, including DSL service, as information services.[98] As a result of this classification, DSL will not be subject to Title II regulation at the federal level.

There was a significant development in the Florida cable market in April 2005 as Comcast and Time Warner announced an agreement to acquire the assets of Adelphia Cable. Comcast will gain approximately 600,000 former Adelphia customers in Florida as a result of this acquisition.[99] Most of these subscribers are located in Adelphia's former Palm Beach County operations. Comcast and Time Warner noted that the former Adelphia subscribers would benefit from the accelerated deployment of video, high-speed data, voice, and other advanced services.[100]

The importance of the cable television market is illustrated by the above average cable penetration levels in Florida. Florida cable television households (5 million) as a percent of all television households (6.8 million) reached a 74% penetration level as of September 2004.[101] This compares with a national penetration rate of 67%. Such significant numbers position the cable industry as a formidable challenger to wireline ILECs in Florida in the foreseeable future. The next twelve to eighteen months will provide real answers as to whether cable providers are serious challengers to ILECs in the provision of local telephone service in Florida as they complete their roll out of voice services throughout their service areas.

C. BROADBAND

As high-speed data services continue to replace dial-up Internet services, broadband services and applications are expanding to incorporate an even larger share of consumer time and spending in the communications arena. In a recent national survey regarding communication and entertainment technologies, broadband Internet access was listed as having the biggest impact on users' lives.[102] Consumers listed broadband as having more impact on their lives than other recent innovations, such as digital video recorders, satellite television, satellite radio, MP3 players, or even DVDs. Of particular importance for the Florida and the U.S. communications markets will be the impact of broadband technology on competitive alternatives to voice services offered by wireline, wireless, and cable providers.

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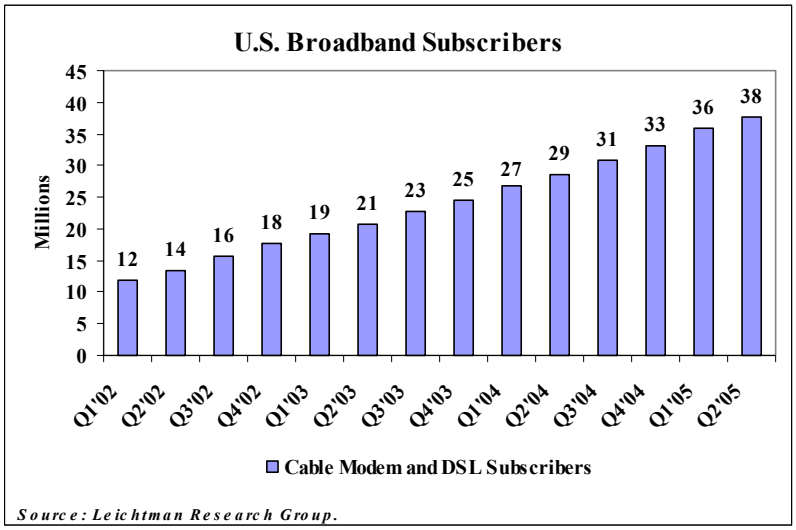
[97] National Cable Telecommunications Association, et al. v. Brand X Internet Services, et. al 545 U.S.___(2005), June 27, 2005.
[98] FCC 05-150, CC Docket No. 02-33, "Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, Report and Order and MPRM," September 23,2005, ¶199.
[99] "Time Warner Cable and Comcast to Acquire Assets of Adelphia Communications," Slide show, p.8, *Comcast Webcast*, April 21, 2005. <http://phx.corporate-ir.net/phoenix.zhtml?c=118591&p=IROL-eventDetails&EventId=1057107>.
[100] "Time Warner Cable and Comcast to Acquire Assets of Adelphia Communications: Companies Also to Swap Certain Cable Systems and Unwind Comcast's Interests in Time Warner Cable and Time Warner Entertainment." *Comcast Press Release*, April 21, 2005, < http://www.cmcsk.com/phoenix.zhtml?c=118591&p=irol-newsArticle&ID=698712&highlight=> (October 13, 2005).
[101] "Industry Overview/Statistics and Resources/State Data," National Cable & Telecommunications Association, <http://www.ncta.com/Docs/PageContent.cfm?pageID=302> (July 26, 2005).
[102] "Internet and Multimedia 2005: The On-Demand Media Consumer," Arbitron/Edison Media Research, p.8, <http://www.arbitron.com/downloads/IM2005Study.pdf> (March 23, 2005).

1. Nationwide Trends in the Broadband Market

The United States broadband market continues to make strong advances in terms of total subscribers, quarterly additions, consumer usage, and the spread of broadband-related applications. As shown in Figure 16, approximately 38 million households subscribed to broadband service (also referred to as high-speed access) in the second quarter of 2005.[103] This equates to a 32% annual growth rate from the second quarter of 2004 to the second quarter of 2005.

Figure 16

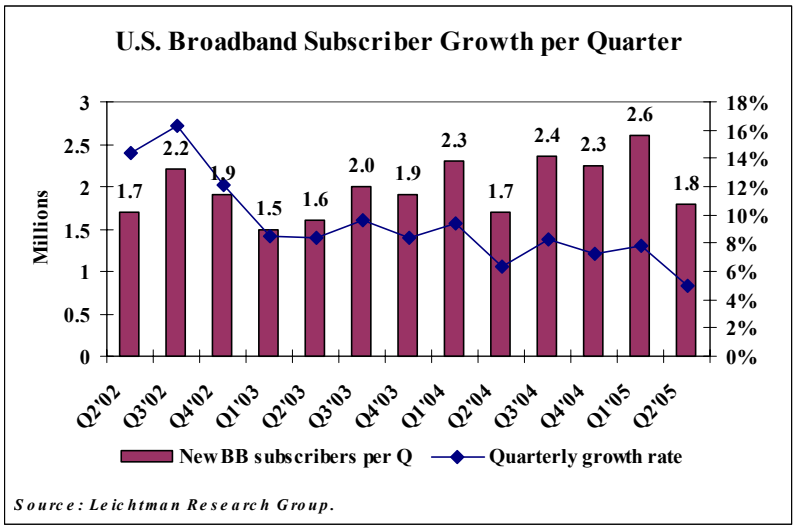


In the first quarter of 2005, the number of new subscribers per quarter hit a record high, with more than 2.6 million subscribers added, as shown in Figure 17.[104] In the second quarter, market growth slowed as only 1.8 million new subscribers were added. This equates to 5% sequential quarterly growth versus the typical 8 - 9% growth range seen over the past two years. The second quarter of the year is typically slow for broadband additions due to seasonal variations in buying patterns, but it will be useful to watch for any future deviation from historical growth trends.

While the sequential quarterly growth rate has naturally declined from earlier levels as the broadband base has grown larger, record new subscriber additions, such as those seen in the first quarter of this year, reflect strong adoption patterns by mainstream residential consumers, rather than merely the early adopter segment. In fact, new subscribers for 2004 were a record 8.7 million, compared with 7 million subscribers added in 2003. New broadband subscriptions for the first half of 2005 are running at an annualized rate of approximately nine million subscribers.

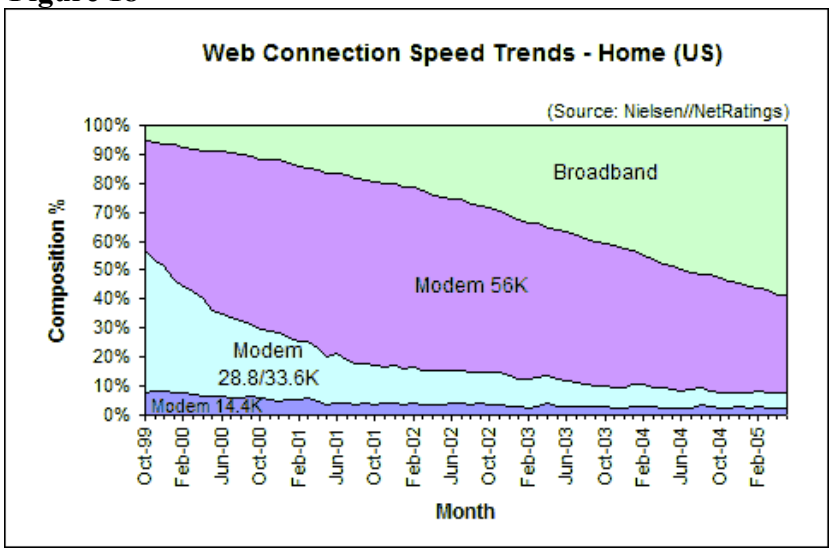
[103] "Broadband Penetration Divided into 'Red States and Blue States,' " *Leichtman Research Group Press Release*, August 17, 2005, <http://www.leichtmanresearch.com> (October 13, 2005).
[104] Ibid.

Figure 17



The consistent growth in broadband subscribers is reflected in the percentage of U.S. homes that have adopted the service. Among those in the U.S. with Internet service of any type, broadband has emerged as the majority choice. Figure 18 provides an overview of the rapidly changing composition of Internet access. As of May 2005, broadband accounted for approximately 59% of Internet households, while dial-up access dropped to 41%.[105]

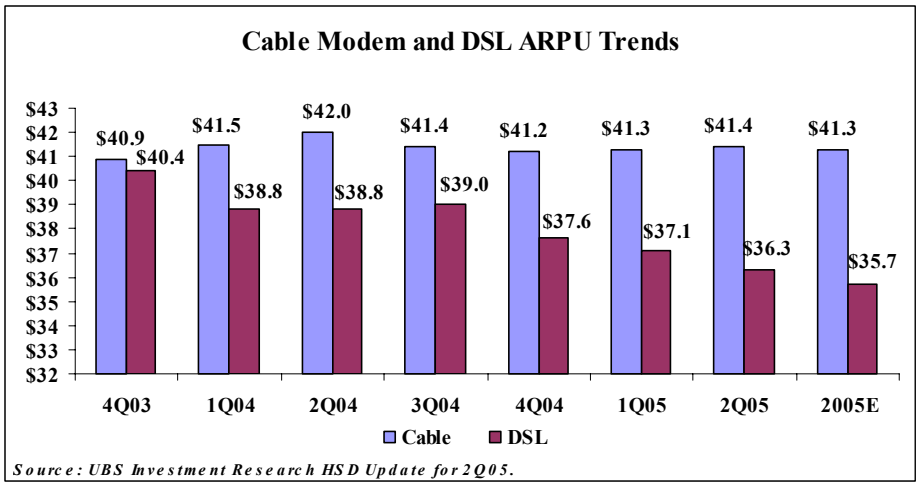
Figure 18



In terms of the overall U.S. population, rather than the subset of Internet users, broadband service reached approximately 33% of all American households by the end of the second quarter of 2005.[106]

[105] "June 2005 Bandwidth Report – US-Canadian Broadband Penetration Gap at 20 Points – US Broadband Penetration Crawls to 58.8% in May," Neilsen/NetRatings data, as compiled by Website Optimization, <http://www.websiteoptimization.com/bw> (August 25, 2005).
[106] John Hodulik and Aryeh Bourkoff, "Broadband Hit by Seasonality as VoIP Ramps," *UBS Investment Research*, August 16, 2005.

Figure 19



Competition between DSL and cable modem providers for new broadband customers continues to advance on various fronts. DSL carriers are taking the lead in lowering prices in an effort to gain market share. Figure 19 presents recent nationwide trends in average revenue per user (ARPU) for the DSL and cable modem service providers.[107] ARPU is the average monthly revenue to the service provider per high-speed customer. It provides a concise means of analyzing nationwide pricing trends by taking into account standard pricing plans and the vast array of special pricing promotions marketed to customers. Figure 19 shows a significant drop in DSL pricing since 2003. Over the same time period, cable providers have maintained pricing levels for cable modem service, creating an increasing price premium compared with DSL. Higher cable modem pricing has likely been a contributing factor in cable's declining lead in broadband market share. While cable modem service has traditionally been the most prevalent method of broadband access, DSL providers added more broadband subscribers than cable for the first time in the first quarter of 2004. Since that time, DSL has led in subscriber gains for five of the six quarters.[108]

Cable providers have turned to increasing customer download speeds as an alternative to price discounts. However, cable providers are more frequently matching DSL price cuts in territories where the two compete directly.

Historically, incumbent wireline telecommunications companies have resisted the provision of DSL to consumers that did not also subscribe to their local exchange service. However, though not required, both Verizon and Qwest have recently announced plans to market DSL independently of their local exchange service. This is referred to as "naked DSL."

The significance of "naked DSL" is that a consumer is free to secure his or her local exchange service from either a wireline competitor, a wireless provider, or a VoIP provider without having to also subscribe to the incumbent wireline company's local service. This could impact some consumers' decisions on whether or not to abandon wireline telecommunications altogether. Both DSL and cable modem service make it possible for subscribers to subscribe to

[107] Ibid., Chart 7, p 6.
[108] Ibid., Chart 1, p 3.

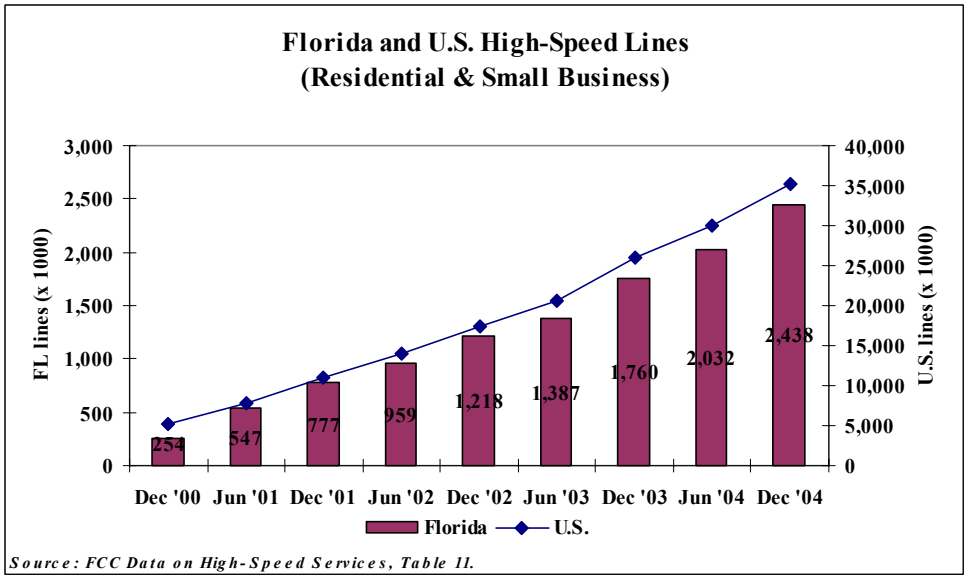
VoIP telecommunications services. It should also be noted that more than one cable provider in Florida makes VoIP-based communications service available to its cable television subscribers independent of subscription to cable modem (broadband) service.

2. The Florida Broadband Market

According to the most recent FCC report on High Speed Services for Internet Access, the number of residential and small business high-speed data lines in Florida grew by 39% in 2004, while the number of U.S. lines grew by 36%. Florida accounted for approximately 7% of all U.S. broadband lines for each of the past three years. Figure 20 shows that Florida's broadband lines, as of December 31, 2004, were 2.4 million, up from 1.8 million in 2003 and only 254,000 in 2000.[109] Florida remains fourth nationally in residential and small business high-speed lines, following California, New York, and Texas, respectively.[110]

The FCC data in Figure 20, when combined with current household population estimates, yield a broadband penetration rate of approximately 35% for Florida and 33% nationally as of December 31, 2004. In order to gain a more timely estimate, a basic extrapolation of the FCC data for Florida's broadband total would create an estimated penetration rate of 41% of Florida households by mid-year 2005.

Figure 20

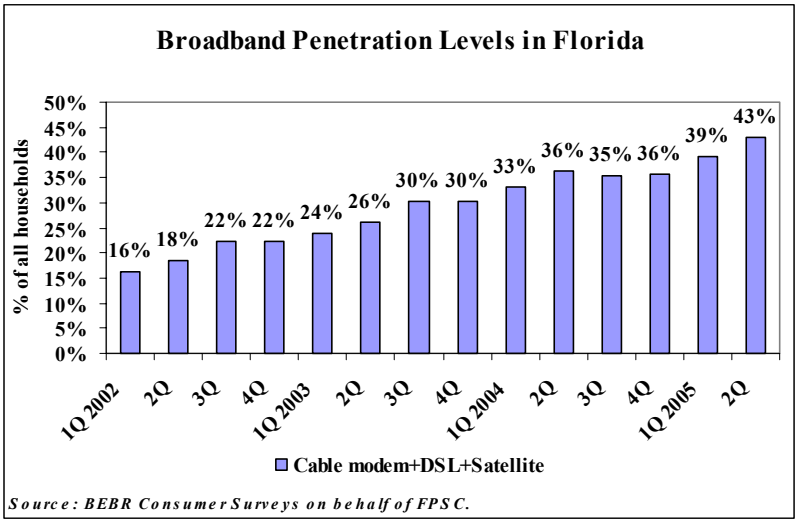


Consumer telephone surveys, conducted on behalf of this Commission, provide another source of information for Florida broadband penetration rates.[111] Figure 21 shows that approximately 43% of Florida respondents reported having a broadband Internet connection in

[109] FCC, "High-Speed Services for Internet Access: Status as of December 31, 2004," July 2005, Table 11. (Prior year data is contained in the FCC Report for that year.)
[110] In terms of total high-speed lines (which includes medium and large business, institutional, and government customer lines), Florida was third nationally, following California and New York.
[111] The Bureau of Economic and Business Research at the University of Florida conducts monthly statewide telephone surveys, which include questions provided by this Commission.

the home by the second quarter of 2005. This is a more aggressive estimate of Florida's broadband penetration than that of the FCC, given that the survey measures only residential households and does not include small business respondents as does the FCC statistics.

Figure 21



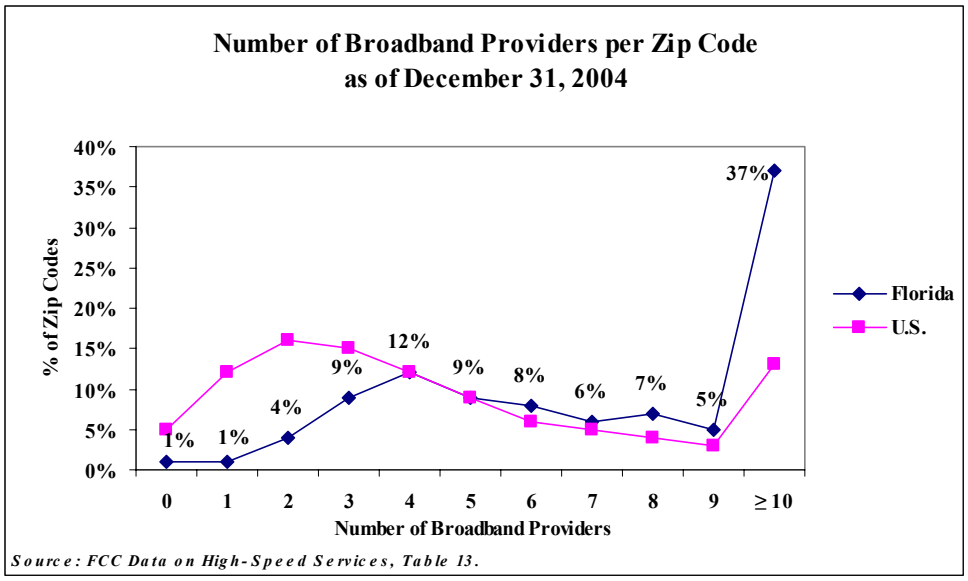
The two predominant broadband access technologies for residential consumers are Digital Subscriber Line (DSL) and cable modem service. While cable modem service had a large lead in market share initially, DSL has more recently surged to narrow that gap. The broadband market is now relatively balanced between DSL and cable modem service.

Figure 22 provides an indication of the competitive status of Florida's broadband market. The FCC's report on High Speed Services for Internet Access provides an estimate of the number of broadband providers per zip code. Results for Florida show a lower than average percentage of Florida zip codes with very low numbers of broadband providers. Conversely, the percentage of Florida zip codes with ten or more broadband providers stands at 37%, versus 13% nationwide.[112] The FCC data does not identify the type of market served by these broadband providers, but experience would suggest that the larger concentrations of broadband providers occur in zip codes that are predominately business-oriented rather than residential. Only one state exceeded Florida's density of such providers; 42% of California zip codes contained ten or more providers.

FCC statistics show the total number of providers of high-speed lines in Florida was 39 as of December 31, 2004.[113] Of these, 14 providers utilized ADSL, ten utilized coaxial cable (modem), and 28 utilized other high-speed technologies, such as fiber-to-the-premises, satellite, terrestrial wireless, or other xDSL methods.[114] These statistics include providers of high-speed lines to small and large businesses as well as residential customers.

[112] FCC, "High-Speed Services for Internet Access: Status as of December 31, 2004," July 2005, Table 13.
[113] Ibid, Table 6.
[114] The total is greater than 39 due to the use of multiple technologies by some providers.

Figure 22

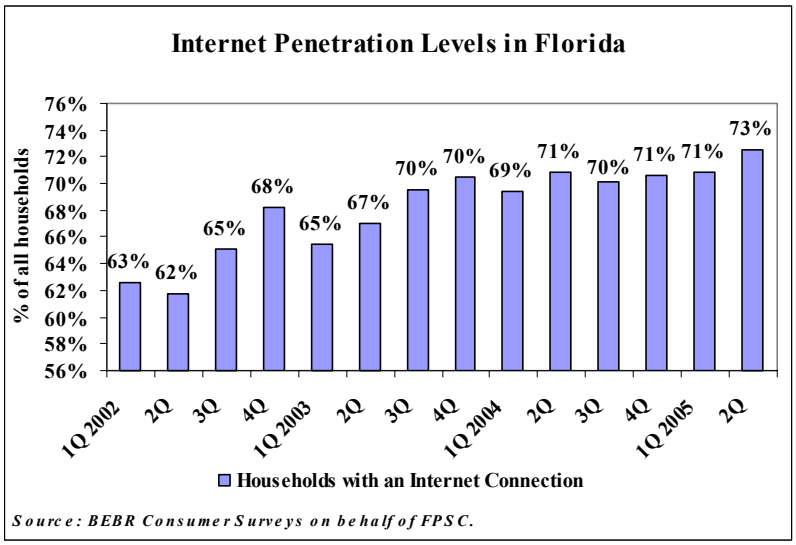


While the Florida broadband population is growing quickly, it is important to take note of the segment of citizens who do not have broadband or even Internet service in their home. Whether this is due to a lack of service availability, personal income, lack of a personal computer, or even a lack of interest in such services, there remains a segment of the population who will continue to be dependent on the use of traditional telecommunications services. National and Florida-specific trends show slowing growth in Internet penetration in recent years, contrasting with the rapid growth seen in the mid-1990's. Figure 23 shows that the percent of Florida's population with Internet service at home has reached a plateau of approximately 70% since mid-2003. As of October 2003, the National Telecommunications and Information Administration found that 87.6% of households with personal computers also used the computer to access the Internet.[115] It is likely that most of the households that do not have Internet access also do not have personal computers. Without personal computers, it is unlikely that this core of unconnected households will opt for broadband service in the near future. This group of unconnected households provides an upper limit to the growth of broadband penetration as well as to the number of households that may opt for IP-enabled voice service.

Florida's high rate of broadband adoption likely foreshadows even greater changes in the telephony and communications markets. Traditional telephone services may be subject to earlier and more extensive change in the Florida market when compared to the overall U.S. market, as our population will likely adopt VoIP and other advanced communications technologies at an advanced pace. However, policy makers must be mindful of the significant number of consumers who do not have personal computers or Internet access at home.

[115] "A Nation Online: Entering the Broadband Age, National Telecommunications and Information Administration," *U.S. Department of Commerce*, September 2004, p 5.

Figure 23



3. Overview of Existing and Emerging Broadband Technologies

Alternative broadband technologies continue to advance through various stages of development. The availability of 3G[116] wireless broadband is expanding quickly due to efforts of major U.S. wireless carriers. Wi-Fi Internet access providers continue to use the technology as a means of extending broadband and possibly wireless voice services. Fixed wireless broadband services have centered around early Wi-Max deployments, with support for the standard from major equipment providers such as Intel and Nokia. In the satellite broadband arena, total subscribership remains relatively low, but new deployments continue to provide increasingly appealing alternatives for rural consumers. Meanwhile, recent initiatives from the regional Bell companies have accelerated the fiber-to-the-home and neighborhood market.

a. Wireless Broadband

The flexibility of wireless technology is an increasingly important factor as these services continue to enhance network access and mobility. While landline broadband service maintains a natural bandwidth advantage, the various wireless technologies listed in the following sections each provide certain competitive features that offer key alternatives.

i. 3G Wireless

Last year, Verizon Wireless and Sprint each announced nationwide build outs of 3G wireless broadband services. Both companies are using the wireless data standard known as EV-DO (Evolution Data Optimized), which provides approximately 500 kbps of download capacity.

[116] 3G (or 3-G) is short for third-generation mobile telephone technology. The services associated with 3G provide the ability to transfer both voice data (a telephone call) and non-voice data (such as downloading information, exchanging e-mail, and instant messaging). 3G services provide increased bandwidth over earlier mobile generations, with Internet download speeds typically in the entry level broadband range. Analog cellular is considered the first generation, while digital is second generation.

The key advantage is mobility. Subscribers can access the Internet at broadband speeds while moving anywhere within the coverage area.

During the second quarter of 2005, Verizon Wireless expanded broadband service to include more than 50 major metropolitan markets and surrounding areas, as well as 57 airports nationwide. The network currently reaches one-third of the population and is expected to be available to nearly half the U.S. population by year-end 2005.[117] Verizon Wireless Broadband Access is available in the following Florida cities: Ft. Lauderdale, Jacksonville, Miami, Orlando, Tampa/St. Petersburg, West Palm Beach, and Tallahassee.[118]

Sprint announced the launch of its wireless broadband network in July 2005 with aggressive plans to expand coverage to approximately half the U.S. population by early 2006. This would include approximately 200 urban and suburban markets in approximately 60 metropolitan areas.[119]

For its wireless broadband deployment, Cingular Wireless is using an alternative 3G technology known as UMTS (Universal Mobile Telecommunications System). Cingular plans to launch 3G in 15-20 markets by year-end 2005.[120] Cingular's website notes that UMTS provides average data speeds of 220-320 kbps with bursts up to 384 kbps.[121]

ii. Wi-Fi

Wi-Fi[122] hotspots are public locations or businesses where individuals may connect to the Internet through a wireless connection. Some locations are free for public use, while most are based on a one-time fee or monthly subscription model. As of August 2005, there were 1927 hotspots in Florida, 206 of which were free sites.[123] In terms of total hotspots, Florida was third nationally, behind only California and Texas. Figure 24 shows the recent growth in Florida hotspots.

In addition to hotspots, consumers are increasingly adopting Wi-Fi technology as a means of extending their wireline broadband connection into a wireless home network. The increased functionality of broadband access throughout the home, combined with Wi-Fi's ease of use and continually falling prices, create another impetus for increased broadband adoption.

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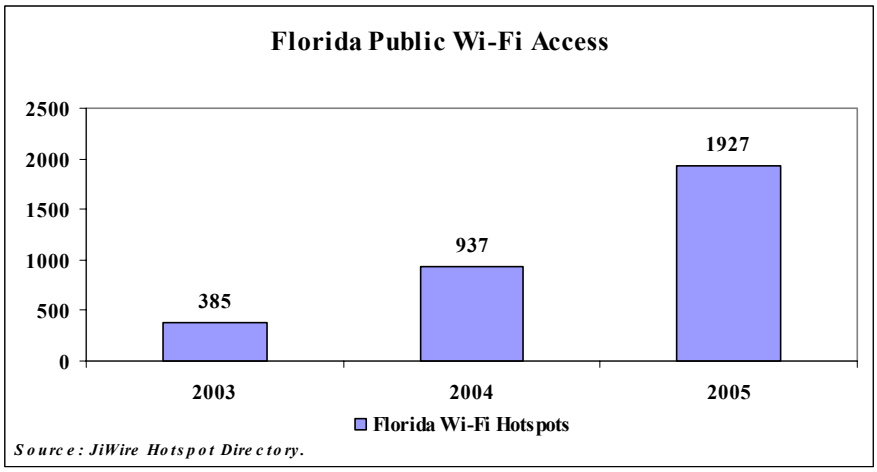
[117] Verizon Communications 2Q 2005 Earnings Report, July 26, 2005, <http://investor.vzmultimedia.com/news/view.aspx?NewsID=649> (September 27, 2005).
[118] "Verizon Wireless Leads Industry With National Wireless Broadband Services," *Verizon Press Release*, June 28, 2005, <http://news.vzw.com/news/2005/06/pr2005-06-28.html> (September 27, 2005). Tallahassee availability was listed in a separate press release, "Verizon Wireless Launches High-Speed Wireless Broadband Network in Tallahassee, Florida area," *Verizon Press Release*, February 28, 2005, <http://news.vzw.com/news/2005/02/pr2005-02-28.html> (September 27, 2005)
[119] "Sprint Begins Launch of EV-DO Wireless High-Speed Data Service." *Sprint Press Release*, July 7, 2005, <http://www2.sprint.com/mr/news_dtl.do?id=7261> (September 27, 2005).
[120] "Cingular Wireless Posts Strong Second-Quarter Results, Advances Merger Integration Initiatives," *Cingular Press Release*, July 20, 2005, <http://www.prnewswire.com/micro/cingul1> (September 27, 2005).
[121] Cingular Wireless website, <http://www.cingular.com/midtolarge/umts?awredirect=awspecificpage> (August 11, 2005).
[122] Wi-Fi is short for wireless fidelity. It is a term developed by the Wi-Fi Alliance to describe wireless local area network (WLAN) products that are based on the Institute of Electrical and Electronics Engineers' (IEEE) 802.11 standards.
[123] Ji-Wire Wi-Fi Hotspot Finder, <http://www.jiwire.com> (August 11, 2005).

Figure 24



iii. Fixed Wireless

Fixed wireless Internet service has traditionally been offered by service providers transmitting microwave signals from a fixed antennae to multiple recipients, also at fixed locations. Initially, the end user was required to be within the line of sight of the transmitter, or base station. However, wireless technology has developed rapidly in recent years, allowing for more flexible fixed wireless systems. Now, various technologies allow for those receiving wireless data to be increasingly mobile. The requirement for a direct line of sight is also being lessened or eliminated in many cases. Broadband Wireless Access (BWA) is increasingly used as a more encompassing term for the broad range of fixed and mobile wireless services.

Many of the new fixed wireless broadband offerings are developing around the WiMAX standard. As described by the WiMAX Forum, an industry trade group supporting the standard, "WiMAX is a standards-based technology enabling the delivery of last mile wireless broadband access as an alternative to cable and DSL. WiMAX will provide fixed, nomadic, portable, and, eventually, mobile wireless broadband connectivity without the need for direct line of sight with a base station."[124]

In August, BellSouth announced the initial availability of wireless broadband service to certain BellSouth customers. The service is based on a pre-standard version of WiMAX technology. BellSouth's wireless broadband is first available to customers in areas of Athens, Georgia, with deployment to customers in selected Florida cities expected later in 2005. BellSouth has previously conducted market trials for the service in Palatka and Daytona Beach, Florida.[125] The basic service offers low level broadband speeds: 384 kbps downloads and 128 kbps uploads for $29.95. The next tier offers 1.5 mbps downloads and 256 kbps uploads for $39.95, which is comparable to many DSL or cable modem offers.

[124] WiMAX Forum, <http://www.wimaxforum.org/about> (August 23, 2005).
[125] "BellSouth to Launch Wireless Broadband in August," *BellSouth Press Release*, June 7, 2005, <http://bellsouthcorp.policy.net/proactive/newsroom/release.vtml?id=49968> (September 27, 2005).

Another company providing residential fixed wireless broadband service to Floridians is Clearwire. The company began wireless broadband service in Jacksonville and has now expanded the model to 16 cities nationwide, including Daytona Beach, Florida.[126]

iv. Satellite

The broadband satellite industry suffered several setbacks throughout 2004, including delayed satellite launches and service offerings, DIRECTV's redeployment of potential broadband satellites for HDTV purposes, and low overall industry subscriber totals. However, broadband satellite providers saw some targeted successes in 2004, and these have carried over to 2005. Northern Sky, a satellite research firm, expects revenue for the broadband satellite industry to grow from $2.7 billion in 2004 to $4 billion in 2007, a compound annual growth rate of 7.8%.[127]

Wildblue Communications announced the launch of broadband Internet services via satellite in June 2005, after postponing a planned 2004 deployment of services. Targeted primarily at rural consumers, the service will initially be offered on a retail basis in cooperation with more than 280 rural electric and telephone companies of the National Telecommunications Cooperative Association (NTCA).[128] Wildblue plans to reach national availability by the third quarter of 2005 by adding rural consumer electronics and satellite TV dealers to the retail distribution network.

Hughes Network System's Direcway service leads the satellite broadband industry in subscribers, finishing 2004 with 220,000 subscribers nationwide.[129] A company record of 40,000 subscriber additions was set in 2004. Another competitor in the market, Starband, has approximately 35,000 customers across the United States, Canada, the Caribbean, and Central America.[130]

b. Fiber

Broadband deployments via fiber-to-the-home (FTTH),[131] fiber-to-the-premises (FTTP), or fiber-to-the-node (FTTN) are growing rapidly across Florida and the U.S. FCC statistics show 52% growth in FTTH deployment for the second half of 2004, up from 15% growth in the first half.[132] This most likely reflects the beginning of efforts by Verizon to deploy fiber to one million homes in 2004, followed by another two million in 2005. BellSouth increased its fiber

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[126] Clearwire website, <http://www.clearwire.com/index.html> (August 23, 2005).
[127] Robert Poe, "Satellite Broadband's Next Trick," *Telecom Asia*, April 27, 2005, <http://www.telecomasia.net/telecomasia/article/articleDetail.jsp?id=155247> (September 27, 2005).
[128] "Wildblue Announces Service to Roll Out the First Week of June," *Wildblue Press Release*, May 19, 2005. <http://www.wildblue.com/company/pressReleases.jsp> (September 27, 2005).
[129] "WildBlue Readies Satellite Broadband Service for Rollout," *Satellite News*, May 23, 2005, <http://www.northernskyresearch.com/WildBlue.pdf> (September 27, 2005).
[130] "StarBand High-Speed Satellite Internet Back in the Fast Lane," *StarBand Press Release*, December 3, 2004, <http://www.starband.com/whatis/pressreleases/120304.asp> (September 27, 2005).
[131] Fiber-to-the-home (FTTH) , fiber-to-the-premises (FTTP), fiber-to-the-curb (FTTC), and fiber-to-the-node (FTTN) denote the degree to which fiber optic cable is deployed in the telecommunications network. FTTH refers to fiber deployed to the network interface device of an individual residence. FTTP includes fiber to business locations, as well as residential locations. FTTC refers to fiber deployment to a pedestal within a neighborhood that may serve a relatively small number of residences. FTTN refers to fiber deployed to a distribution cross box or digital loop cabinet that may provide digital services to a neighborhood or neighborhoods within approximately 3000 feet of the cabinet.
[132] The FCC categorizes Broadband over Powerline (BPL) and FTTH subscribers together in this instance, but BPL customers are assumed to be a small part of the total. FCC Report on High-Speed Services for Internet Access: Status as of December 31, 2004, released July 2005, Table 4.

deployment to 60% more locations in its service territory in 2005 than in 2004.[133] These efforts by BellSouth and Verizon indicate increased availability of fiber as a future means of high-speed Internet access.

In addition, many greenfield developments (new housing developments with no previous telecommunications infrastructure in place) are being equipped with FTTH by competitive providers or ILECs. The FTTH Council reported 398 communities in 43 states on its list of U.S. Optical Fiber Communities for 2005.[134] This was an increase from 128 communities in 32 states in 2004. Florida FTTH communities jumped to 20 in 2005 from 6 in 2004 according to the Council. The list may be conservative as fiber deployments are expanding rapidly.

While the high level of activity in the fiber deployment arena is encouraging, it is important to keep such growth in context. Recent statistics put the total number of homes passed by fiber at fewer than 2% of all U.S. households.[135]

Based on responses to this Commission's data requests, Verizon reported FTTH deployments to 23 Florida exchanges as of June 15, 2005. BellSouth reported deployments to 366 locations in 106 different wire centers throughout Florida. Each location covers approximately 200-300 households. BellSouth used the fiber-to-the-curb strategy in these locations.

Verizon selected a fiber-to-the-premises (FTTP) infrastructure for its next generation network, which goes by the name FiOS. This infrastructure provides exceptional bandwidth capabilities but with high initial expense. Verizon reported the investment in the Florida FiOS network alone to be $300 million. FiOS has been deployed in certain areas of Verizon's Florida service territory, including sections of Tampa and Temple Terrace in Hillsborough County, as well as sections of Manatee, Sarasota, and Pasco Counties. This equates to 220,000 premises passed in Verizon's Florida service territory, with 300,000 premises expected to be passed by the end of this year. Bright House Networks is the primary cable competitor in the Tampa Bay area.

The utilization of fiber optic networks allows telecommunications firms to now provide broadband, telephone, and video services over one network. This creates the potential for direct competition with cable operators in the video market throughout Florida and the nation. Verizon created a traditional approach to video platform delivery using the broadcast model of the cable industry, as opposed to emerging methods of video delivery in trials by BellSouth and SBC. Verizon reported that 860 MHz of bandwidth is provided for voice or Internet applications. Verizon's FTTP capacity allows such an approach which utilizes high levels of bandwidth to send every available channel to the household at all times.

As of September 26, 2005, Verizon launched its video service, referred to as FiOS TV, in Keller, Texas.[136] Verizon's offering advertised more than 330 channels of programming.

[133] "BellSouth Boosts Fiber Deployment Following FCC Order," *BellSouth Press Release*, June 30, 2005, <http://bellsouthcorp.policy.net/proactive/newsroom/release.vtml?id=50287> (September 27, 2005).
[134] "2005 May 10 Updated Fiber Optic Communities List." *FTTH Council*, May 10, 2005, <http://www.ftthcouncil.com?t=33+_L_RecordId=39> (September 27, 2005).
[135] Teresa Mastrangelo, "High-Fiber Diets for Providers: Health or Hardship?" *Telecommunications Online,* June 28, 2005, <http://www.telecommagazine.com/search/article.asp?Id+AR_910+searchword=> (September 27, 2005).

Charter Communications, Inc., the cable provider in Keller, has responded to Verizon's entry with promotional offers of its own.[137] Verizon's service is expected to be available in areas of Temple Terrace, Florida before the end of this year.[138] Verizon has acquired video franchise rights in Manatee County and Temple Terrace, Florida. The Manatee County agreement covers 235,000 residents, which is the largest franchise agreement acquired by Verizon to this point.[139] Video service is expected to be available in Manatee County in 2006.

BellSouth has deployed fiber-to-the-curb to serve 1.1 million homes in its nine-state territory as of the second quarter 2005.[140] For the last link to customer homes, the company plans to use an advanced DSL standard known as ADSL 2+, which vendors claim will provide 12 Mbps over a single copper wire pair. An extension of this, copper pair bonding, would allow 24 Mbps capacity. This degree of capacity would allow BellSouth to provide its own unified offering of broadband, voice, and video services. On the video front, BellSouth is currently in early trials of IPTV service delivery. The company expects to expand trials to 300 to 500 users in the second half of 2005 and potentially roll out IPTV services commercially in 2006.[141]

A major factor influencing how quickly the ILECs will be able to offer television services - and, thus, compete head-to-head with the cable companies - is the negotiation of video franchise agreements. Cable operators have developed local level franchise agreements with hundreds or even thousands of city, municipal, and state entities over the course of several decades. Many municipalities worry that franchise tax revenue could be reduced by competitive video offerings not subject to the same framework. Cable companies claim an unfair competitive position for the ILECs if they are not subject to the same build out requirements and fees typical of the franchise system.

ILECs have proposed statewide franchise agreements in order to streamline the process. Verizon has pushed the introduction of statewide franchise legislation in its home state of New Jersey, while SBC and Verizon have backed similar efforts in Texas. The Texas statewide franchise bill was signed into law on September 7, 2005, by Texas Governor Rick Perry. The legality of the Texas law has been challenged by the Texas Cable & Telecommunications Association.

The major ILECs have made some key advances toward a video solution, but still must complete several key steps before widespread video programming can be offered. These steps

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[136] "Verizon FiOS TV is here!", *Verizon Press Release*, September 26, 2005, <http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=92862&PROACTIVE_ID=cecdc8c8cdc6c9c9c8c5cecfcfcfc5cecec6cdc7cdc9c8cccec5cf> (October 18, 2005).

[137] Terry Maxon, "Verizon to expand TV Service," *The Dallas Morning News*, September 23, 2005, <http://www.dallasnews.com/s/dws/bus/stories/DN-keller_23bus.ART.State.Edition1.1de96c70.html? (October 20, 2005).

[138] "Verizon is Granted Authority to Offer FiOS TV to 235,000 Residents of Manatee County," *Verizon Press Release*, August 30, 2005, <http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=92809&PROACTIVE_ID=cecdc8c8cdc6cacbc7c5cecfcfcfc5cecec6cdc7cdc9cacccec5cf> (October 18, 2005).

[139] "Verizon is Granted Authority to Offer FiOS TV to 235,000 Residents of Manatee County," *Verizon Press Release*, August 30, 2005, <http://newscenter.verizon.com/proactive/newsroom/release.vtml?id=92809&PROACTIVE_ID=cecdc8c8cdc6cacbe7c5cccfcfcfc5cecec6cdc7cdc9caccec5cf> (October 18, 2005).

[140] BellSouth Investor News, Second Quarter 2005, July 25, 2005, <http://www.bellsouth.com/investor/pdf/2q05p_news.pdf> (September 27, 2005).

[141] Mark Sullivan, "BellSouth's Smith Details IPTV Plans," *Light Reading.com*, July 15, 2005, <http://www.lightreading.com/document.asp?doc_id=77250> (September 27, 2005).

include the choice of video delivery platform, the negotiation of video franchise agreements, and the acquisition of programming content.

c. 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. Part of the appeal of BPL is its potential to bring broadband services to underserved rural areas. In areas where broadband is more widely available, proponents of the technology believe that BPL will bring about more competition in the broadband market, which could lead to lower prices.

In July 2005, the FCC released a report titled *High-Speed Services for Internet Access: Status as of December 31, 2004*. The report included data about the number of high-speed connections for different technologies, such as cable. One category used in the report was "optical fiber to the subscriber's premises and electric powerline." The number of fiber or powerline connections serving residential and small business customers increased by 54% during the second half of 2004.[142] It is not clear from the report what percentage of this grouping is attributable to fiber optic connections and what percentage is electric powerline connections.

Several utilities that offer electric service in Florida have been involved in BPL trials or offerings. In August 2004, Progress Energy concluded a BPL trial in Wake County, North Carolina. Progress said, at the time, that while the trial was a successful test, it had no immediate plans to offer high-speed Internet service via its power lines and that the company had a few technical issues that affected the stability of the connection which needed to be resolved.[143] In February 2005, a Florida Power & Light (FPL) spokesperson stated that FPL had been testing the technology and was trying to determine its value to the utility and its customers.[144] Jacksonville Electric Authority (JEA) partnered with Nemours Children's Clinic and is currently delivering pediatric remote home monitoring services over BPL for children who have asthma in the Springfield community of Jacksonville, Florida. The JEA grant project is scheduled to end in December 2006.[145] In September 2004, JEA was studying the feasibility of using BPL as an additional tool for managing its infrastructure. However, the company stated that the desire to become a BPL provider would likely be driven by demand for broadband services by its customers.[146] In December 2003, Southern Telecom, a subsidiary of Southern Company, announced a successful demonstration of BPL on the electrical distribution systems of Georgia Power and Alabama Power, but no further BPL activity has been publicized by the company.[147]

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[142] FCC, "High-Speed Services for Internet Access: Status as of December 31, 2004," July 2005, Table 3.
[143] Frank Norton, "Progress Ends Its Broadband Trial," *The News & Observer*, August 6, 2004, <http://www.newsobserver.com/business/nc/story/1504502p-7666421c.html> (September 27, 2005).
[144] Kristi Swartz, "Power Lines May Be Next Connection to Internet," *The Palm Beach Post*, February 28, 2005, <http://www.newmilliniumresearch.org/news/palmbeachpost022805.pdf> (September 27, 2005).
[145] NTIA Technology Opportunities Program Grant Information, < http://ntiaotiant2.ntia.doc.gov/top/awards/details.cfm?oeam=126004001> (July 25, 2005).
[146] Tony Quesada, "JEA exploring broadband over power line technology," *The Business Journal of Jacksonville*, September 20, 2004, <http://www.bizjournals.com/industries/high_tech/internet/2004/09/20/jacksonville_story4.html> (September 22, 2004).
[147] "Southern Telecom and Main.net Announce Successful Demonstration of Broadband Over Power Lines," *Southern Company Press Release*, December 2003, <http://www.southern-telecom.com/pr12102003.asp> (September 28, 2005).

BPL continues to hold promise as a third wired broadband network to the home. While cable modem and DSL still lead the market in terms of deployment and number of subscribers, BPL activity can and should be closely monitored. While a number of successful trials have been conducted by traditional electric utilities, many of those companies have not yet elected to provide broadband services. This may suggest an unwillingness of a traditionally risk averse industry to accept the risk of a competitive business venture, such as broadband service, rather than any insurmountable technical constraints. It may also reflect a broadband market that is priced at levels that BPL providers cannot currently match.

D. VOICE OVER INTERNET PROTOCOL

1. Introduction

Although the FCC has not formally defined Voice over Internet Protocol (VoIP), it uses the term generally to include any IP-enabled service offering real-time, multidirectional voice functionality including, but not limited to, services that mimic traditional telephony.[148] VoIP telephony generally employs a broadband connection to the public Internet or a private IP-based network to provide voice communications.

There are many reasons why VoIP is gaining acceptance as a residential and business market alternative to traditional telephone service. VoIP services include all the features of traditional telephone service, such as caller-ID, call-waiting, and voice-mail, plus features that redefine telephone service, such as being able to use VoIP service at any location that has a broadband connection to place and receive calls as if at home or the office. Other nontraditional call features include web interfaces to access calendars, add and delete services, find me/follow-me functions, incoming and outgoing call details, and click-to-call capability.

In addition, medium and large business users appreciate the ability to implement moves/adds and order virtual telephone numbers for long-distance calls at local rates. VoIP service is also attractive because providers are able to offer local, long distance, and international service at discounted rates compared to traditional wireline telephone companies.[149] This is largely due to the fact that VoIP providers are not required to pay many of the taxes, charges, and fees associated with traditional telephone service. For example, most VoIP service providers do not pay into the Universal Service Fund.[150]

There are a growing number of VoIP providers marketing services to all types of customers, both business and residential.[151] Initially, VoIP service providers consisted primarily of independent Internet-based providers, such as Vonage, that require a customer to already have a broadband connection and an Internet service provider. This category of providers was first to market VoIP services to the general public. Today, wireline ILECs, including Verizon, BellSouth, and Qwest, offer VoIP-based service over their own networks. Also, certain

[148] FCC 04-28, WC Docket No. 04-36, "In the Matter of IP-Enabled Services NPRM," March 10, 2004, ¶3.
[149] Some of the VoIP-based service providers and the services they offer are discussed at <http://www.pcmag.com/article2/0,1759,1750322,00.asp>.
[150] Florida cable VoIP providers Brighthouse, Comcast, and Cox are currently paying the Communications Services Tax in accordance with Chapter 202.11(3), F.S., and voluntarily contributing to the Universal Service Fund.
[151] FCC, Rcd 4863, 4871-73, WC Docket No. 04-36, "IP-Enabled Services NPRM," June 3, 2005, ¶10 & n.39; Also see VoIP service provider list at <http://www.voipproviderslist.com>.

facilities-based CLECs, such as AT&T, MCI, XO, Covad, and others, offer VoIP options to their customers using a combination of their own facilities and the public Internet. Cable companies, including Comcast, Cox Cable, and Time Warner Cable, are also providing VoIP service options to their customers over cable networks. Finally, well known Internet companies America Online and Google currently offer their own version of VoIP service using the public Internet.

2. Market Penetration

The number and diversity of market participants suggests relatively low market entry costs as well as great potential for growth. Even for independent providers such as Vonage, there is a large potential market represented by the approximately 35.3 million residential and small business broadband subscribers nationwide.[152] Furthermore, as noted in the preceding broadband analysis, broadband service has overtaken dial-up as the Internet access of choice in Florida, and the most recent Bureau of Economic and Business Research (BEBR) survey data confirms that broadband subscribers continue to increase. This serves to expand the universe of potential VoIP customers, especially for those providers that require consumers to provide their own broadband access.

Getting an accurate read on the number of VoIP subscribers is difficult; however, the following estimates from several sources provide the best available approximations:

- IDC, a communications and technology market research and consulting firm, estimates that there were more than one million VoIP residential subscribers in the U.S. at the end of 2004 with that number expected to triple by year-end 2006.[153]

- Yankee Group reports that there were approximately 1.2 million VoIP subscribers[154] through the first quarter of 2005, and that number is expected to reach 2.8 million by year end.[155]

- Independent VoIP provider Vonage reports over 800,000 subscribers (including Canada, Mexico, United Kingdom, and the U.S.) in service as of June 30, 2005.[156]

- Time Warner Cable reported approximately 372,000 VoIP telephony customers as of the first quarter of 2005.[157]

In comparing these estimates, it seems reasonable to accept that roughly one million Americans had subscribed to one form of VoIP service or another by year-end 2004. Estimates by the Yankee Group revealed Vonage as the major VoIP provider at year-end 2003 with approximately two thirds of all VoIP subscribers.[158] However, this was prior to a concerted

[152] FCC, "High-Speed Services for Internet Access: Status as of December 31, 2004," July 2005, p. 3.
[153] Stephen Lawson, "What's Next for Net Phones?" *PC World*, March 7, 2005,
<http://www.pcworld.com/resource/printable/article/0,aid,119911,00.asp> (September 28, 2005).
[154] Cynthia Carpenter, "Crossing The Chasm To Mainstream VoIP Adoption," *Internet Telephony*. April 2005, p.70.
[155] Dave Gussow, "AOL jumps into VoIP," *St. Petersburg Times*, April 7, 2005, p.10.
[156] On September 12, 2005, Vonage issued a press release announcing that is has reached subscribership of one million in North America.
<http://www.vonage.com/corporate/aboutus_fastfacts.php> (September 28, 2005).
[157] Time Warner Cable 1Q 2005 Earnings Release.
[158] Matthew Fordahl, "Vonage to get Internet Phone Competition," *USA Today*, April 13, 2005,
<http://www.usatoday.com/tech/techinvestor/corporatenew 2005-04-13 - VOIP-Competition_x.htm#> (April 13, 2005).

VoIP service roll out by cable operators and traditional telephone companies. The Yankee Group also projects that, by year-end 2005, cable providers will be the VoIP market leaders with an estimated 56% of the market, followed by traditional wireline telephone companies with an estimated 25% of the VoIP market.[159]

In Florida, BEBR telephone survey data collected of behalf of the Commission, indicates that the percentage of residential VoIP subscribers in Florida through the first six months of 2005 was 1.6%. However, the percentage of respondents who have used VoIP service but do not subscribe to the service at home was 8.41%. During the same time period, 37.6% of respondents indicated that they would consider dropping their local and long distance service provider for an Internet-based provider in order to save money. However, 66.1% of respondents were not familiar with VoIP. It would appear from this data that VoIP by its technical name still remains widely unknown in Florida. However, the data demonstrates that significant numbers of consumers are concerned about the cost of telephone service and would consider switching to a cost saving alternative. These results suggest that understanding the technology behind the service may be less important than the quality and price of the service in determining whether a consumer will make the switch to a VoIP service provider. Additionally, Florida's 35% penetration rate for broadband increases Florida's appeal to non-facilities based VoIP providers, such as Lingo and Vonage.

In an April 2005 article appearing in Internet Telephony Magazine,[160] Cynthia Carpenter, Vice President of Marketing for Level 3 Communications,[161] identifies a number of critical factors she believes will influence the acceptance of VoIP service to a more mainstream customer group beyond typical early adopters. First, the technology will have to reach a level of quality and safety resembling that of traditional telephone service, and second, potential customers will need compelling reasons to embrace the new technology.[162] Not surprisingly, foremost among the list of potential reasons to change is cost savings. However, Ms. Carpenter suggests that it is not "rock bottom" prices alone, but price in combination with consistent quality that will provide a compelling basis for change. The next most appealing factor to consumers will be the packaging of telephony with other services such as broadband and cable television. On this basis, she points out, cable providers have a tremendous opportunity to gain market share.

Ms. Carpenter concludes that the majority of potential customers will need to believe that the transition from traditional telephone service will be virtually transparent and that it will bring immediate and tangible benefits and savings.[163] Finally, she points out, many potential customers will be more confident buying VoIP services from a known provider. This bodes well for incumbent and well established competitive telephone companies and for established cable providers. However, it is less optimistic for independent providers without the name recognition of Vonage.

[159] Ibid.
[160] Cynthia Carpenter, "Crossing The Chasm To Mainstream VoIP Adoption," *Internet Telephony*, April 2005, p.70
[161] Level 3 Communications, Inc. is an international communications and information service provider and a leading Internet backbone provider.
[162] Ibid, p.71.
[163] Ibid, p. 71.

A factor to consider regarding the reliability of estimates of VoIP customers is that, while independent providers, such as Vonage, Packet8, and Net2Phone, require a consumer to have a broadband Internet connection in order to subscribe to the service, many cable VoIP providers offer VoIP telephony independent of cable television and cable modem service. Thus, subscription to those services is not necessarily a valid indicator of potential VoIP telephone service subscription. Furthermore, it is possible that a consumer that subscribes to telephone service from a cable provider does not know or care that the service is a VoIP-based service. Cox Cable and Bright House Networks are examples of cable companies in Florida that offer stand alone VoIP service.

3. Regulatory and Legal Issues

a. Regulatory Classification

Another major factor influencing future VoIP acceptance and market place success is the regulatory and legal framework that applies to these services now and in the near future. A series of recent decisions by the FCC has begun to establish the regulatory boundaries for IP-enabled voice services. A more detailed discussion of these decisions appears in Chapter VII of this report, but the more significant determinations are as follows:

- Pulver.com's Free World Dialup is an interstate information service and, therefore, exempt from intrastate jurisdiction;

- AT&T's phone-to-phone service, which employs VoIP between circuit switches, is telecommunications and is subject to access charges; and

- The Minnesota Public Utilities Commission's (MPUC) decision to impose certain requirements on Vonage's provision of VoIP was in conflict with federal policies and the FCC preempted the MPUC based on the inherently interstate nature of Vonage's services.

On February 12, 2004, the FCC initiated a comprehensive proceeding to address a broad range of issues relating specifically to IP-enabled services.[164] That proceeding will yield additional guidance relating to IP-enabled services in the near future. It is clear from the limited decisions already released that the FCC believes that economic regulation is not appropriate for IP-enabled services. However, it is equally clear that social issues related to public safety and law enforcement remain of paramount concern.

b. E911/911 Requirements

On June 3, 2005, the FCC released its Order addressing E911 requirements for IP-enabled voice providers. In the Order, the FCC required all VoIP providers interconnected[165] to the public switched network to comply with the following provisions:

[164] FCC 04-28, WC Docket 04-36, "IP-Enable Services NPRM," March 10, 2004, ¶1.
[165] In this context "interconnected" refers to the ability of the user to receive calls from and terminate calls to the public switched telecommunications network (PSTN), including commercial mobile radio networks.

- Provide E911 service to all of their customers.[166]

- Provide E911 service as a standard feature, rather than an optional enhancement.

- Provide E911 service that is functional wherever the customer is using the service.

- Notify customers that interconnected VoIP service may be limited in comparison to traditional E911 service and provide descriptions of those limitations. Such limitations could include broadband connection failure, loss of electrical power, or use of a non-native (calls physically originated outside the native area code) telephone number.[167]

- Interconnected VoIP providers must comply with all of the requirements in the Order and submit a letter detailing such compliance to the FCC within 120 days of the effective date of the Order.[168]

The Order also contained a Further Notice of Proposed Rulemaking on a variety of remaining issues including what, if any, additional requirements should be imposed to ensure that interconnected VoIP providers make ubiquitous and reliable E911 service available and to determine whether performance standards are necessary, whether reporting requirements and progress monitoring are necessary, and what role states can and should play.

Those IP-enabled voice service providers that hold themselves out as substitutes for traditional telecommunications services will likely be held to the same or similar standard as traditional wireline providers when it comes to public safety and security issues. Furthermore, it will be incumbent on these providers to educate and inform their customers of significant differences in functionality between service platforms that may result in endangerment of consumers. One example is that many, if not most, VoIP service providers do not have back-up power provisions, a condition that would render E911/911 service inoperative during a power outage.

c. Communications Assistance and Law Enforcement Act

On August 5, 2005, the FCC determined that providers of certain broadband and interconnected VoIP services must be prepared to accommodate law enforcement wiretaps.[169] The FCC found that because these services can replace conventional telecommunications services, including circuit-switched voice and dial-up Internet access, the new services are covered by the Communications Assistance and Law Enforcement Act (CALEA).[170] CALEA requires the FCC to preserve the ability of law enforcement agencies to conduct court-ordered wiretaps regardless of technological change. The FCC established an 18-month deadline for

[166]FCC 05-116, WC Docket No. 05-196, "First Report and Order and Further NPRM," June 3, 2005, ¶1.
[167] Ibid, ¶4.
[168] Ibid, ¶50.
[169] FCC 05-153, ET Docket No. 04-295, RM-10865, "Communications Assistance for Law Enforcement Act and Broadband Access and Services, First Report and Order," September 23, 2005, ¶1.
[170] Ibid, ¶39.

providers to achieve compliance with the requirements of the Order.[171] The Order was released September 23, 2005.

4. Going Forward

The ability to provide VoIP telephony using the public Internet and without having to invest in network facilities provides an opportunity for market entry by a large number of providers at a relatively low cost. However, the incremental cost to network owners to add a VoIP service product is also relatively small and provides certain advantages. Cable providers and traditional wireline telecommunications companies have the added advantage of being able to manage networks and, in turn, better manage quality of service issues such as network congestion and network priority. An Internet-based VoIP provider such as Lingo, for example, does not have the ability to directly address network congestion issues and, therefore, has less control over service quality than a carrier that owns network infrastructure. As the market evolves, this may be a factor that contributes to the success or failure of various service providers.

While the FCC has frequently asserted its stance of allowing new services and technologies to evolve without undue regulation, it also has taken the aforementioned steps to fulfill its legal obligation to "promote safety of life and property"[172] as well as public safety.[173] The imposition of these obligations is not trivial and may result in increased costs to some providers that are sufficient to strain their ability to remain a viable entity. Traditional and competitive wireline carriers already have this obligation for wireline services, and it is reasonable to expect that, to the degree they choose to offer VoIP services to end-users, the integration of E911/911 functionality will be readily achievable. Many of the cable operators that provide VoIP to end-users have already integrated this functionality into their offerings. However, a percentage of independent, Internet-based VoIP providers have not previously sought to integrate E911/911 capability into their offerings, choosing instead to provide a disclaimer to the effect that such functionality is not available. The FCC has rendered this option unacceptable. High-profile provider Vonage has made newsworthy efforts to partner with traditional wireline carriers to make this capability available, and it has been a costly and painstaking process. Other less financially able independent VoIP providers may find it too costly to continue to offer service under the weight of such requirements.

Uncertainty remains on several regulatory fronts, which could have an impact on the degree to which VoIP-based services will continue to expand. A significant outstanding issue is whether VoIP services providers will ultimately be required to pay into the Universal Service Fund and on what basis will those contributions be collected, if required.[174] Another unsettled issue has to do with the taxation of VoIP services. If VoIP service is offered on a stand-alone basis without requiring broadband subscription or if it is offered over a carrier's own network, as opposed to the public Internet, does the Internet Tax Moratorium apply? Additionally, if traffic originated via VoIP terminates on the public switched telephone network (PSTN), will switched

[171] Ibid, ¶3.
[172] 47 U.S.C. § 151.
[173] Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286 § 2(b) (1999) (911 Act).
[174] Florida cable VoIP providers Brighthouse, Comcast, and Cox are currently paying the Communications Services Tax in accordance with Chapter 202.11(3), F.S., and voluntarily contributing to the Universal Service Fund.

network access charges apply? Should VoIP providers and consumers ultimately have to pay some or all of these fees and charges, it could negate or substantially reduce what is currently a significant cost advantage for VoIP providers.

Despite regulatory uncertainty, the future of VoIP-based voice communications is predicted to be bright. Several large cable-based providers and other facilities-based telecommunications providers either have entered or plan to enter this dynamic market. Vonage sets the standard for independent Internet-based VoIP providers, but there are still nagging questions about the long term viability of VoIP providers that do not own or lease managed network facilities. In addition, consumers seem to gravitate toward the one-stop-shopping approach to voice, video, and data services, a factor that also works in opposition to the likely success of stand-alone telephony offerings of any kind. Many market analysts and industry experts believe that 2005 will be the year that VoIP services become widely accepted by mainstream consumers.[175] If accurate, 2005 and 2006 will be years of transition for the telecommunications market in Florida and the nation as cable providers and others attempt to make significant gains in market share.

E. SUMMARY

Intermodal competitors, such as wireless, cable, and VoIP, have developed and evolved to challenge the traditional telephone wireline companies for market share. Whether an intermodal competitor's service is seen as a substitute or a complement to traditional wireline service depends on how consumers view various factors such as quality of service, availability, price, and convenience. What is undeniable is that the number of wireline access lines in service continues to decline, while the number of wireless and VoIP subscribers is steadily increasing.

Information presented in the wireless section of this report indicates that approximately 6.1% of customers have replaced wireline with wireless. Wireless, however, is more commonly used as a complement to wireline service. The FCC reports that, at the end of 2004, there were 13,169,278 wireless subscribers in Florida – almost 2 million more than the 11,360,408 wireline (ILEC and CLEC combined) access lines.[176] This is partially attributable to the fact that many households have multiple wireless subscribers. The growth of wireless calling plans, which permit unlimited long distance calling, appears to have significantly eroded traditional wireline long distance minutes. Wireless minutes are estimated to account for 40% of "total voice minutes of use in 2004."[177]

Although approximately 6% or more customers may have disconnected their wireline service, many more wireline customers are using their cellular telephones to make calls that were traditionally made on the wireline network. Companies are also reaching out to consumers with new services and new target markets. Disney has begun to target 8-12 year olds (and their parents) for five-button programmable cellular telephones.

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[175] Martha McKay, "Big telecom: Let's make a deal," *NorthJersey.com*, February 7, 2005, <http://www.northjersey.com/page.php?qstr=eXJpcnk3ZjcxN2Y3dnFlZUVFeXkyJmZnYmVsN2Y3dnFlZUVFeXk2NjQ2Mjg2> (September 28, 2005).

[176] FCC, "Local Telephone Competition: Status as of December 31, 2004, July 2005, Tables 6 and 13.

[177] Horan et. al, "Transfer of Coverage: We Favor Wireless and Cable Over Wireline," *CIBC World Markets*, May 3, 2005, p. 21.

Keenly aware of the potential for wireless to supplant wireline, the bigger wireline companies are making sure that their wireline customers can turn to affiliated wireless providers for wireless service. Cingular is jointly owned by SBC and BellSouth, Verizon and Vodafone jointly own Verizon Wireless, and Sprint (the ILEC) is currently held by Sprint Nextel Corporation. Market diversification by these and other ILECs is mitigating the decline in wireline access lines and associated revenues. According to a recent Verizon stock analysis, "The company's results [2Q05], like those of other regional telecom giants SBC Communications Inc. and BellSouth Corp., reflect strength in its wireless businesses that helped compensate for the withering of the traditional local telephone service."[178]

The information presented in the cable and VoIP sections of this report indicates that the cable companies are beginning to step up the pace of their roll out of VoIP offerings. For example, Comcast expects to have its Digital Voice service available in all of its Florida markets by the end of 2006. The cable companies represent a challenge to the ILECs both as a competing infrastructure and as a source of Internet telephony competition. VoIP providers, such as Vonage, are competing directly with traditional wireline and wireless service.

While it is unclear whether or how quickly the cable companies and VoIP providers will provide significant competition to the wireline and wireless carriers, the ILECs are taking the threat seriously. BellSouth and Verizon each plan to offer video services through fiber projects or in partnership with satellite television providers in order to compete with cable providers that combine video, broadband, and VoIP service. At the same time, the cable companies are beginning to partner with wireless providers in order to provide a complete telecommunications package. For example, Time Warner Cable is reselling Sprint's wireless service in a trial in Kansas City, Missouri.[179]

Another characteristic of intermodal competition that bodes well for consumers in the near future is the promise of head-to-head competition that has historically been lacking in the traditional telecommunications. Historically, incumbent wireline telecommunications companies have operated in exclusive franchise areas. Wireline competitors have challenged incumbents in Florida since 1995, but incumbent companies have been loathe to compete directly against one another in their respective franchise areas. Cable companies have faced competition from satellite providers and, to a lesser extent, by overbuilders within established franchise areas.[180] Wireless providers have been increasingly subject to vigorous competitive pressures since the FCC encouraged greater competition through its bandwidth policies. With the advent of IP-based communications and video services and widespread wireless competition, it is likely that cable giants such as Comcast, Cox Cable, and Time Warner will be in direct competition with large telecommunications companies such as SBC, Qwest, BellSouth, Verizon, and Sprint.

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[178] Arshad Mohammed, "Telecom Plugs into Wireless," *The Washington Post,* July 27, 2005, <http://www.washingtonpost.com/wp-dyn/content/article/2005/07/26/AR2005072601756.html> (July 29, 2005).

[179] Mark Rockwell, "Sprint/Time Warner = Good/Bad?" *Wirelessweek.com*, August 1, 2005, <http://www.wirelessweek.com/index.asp?layout=articlePrint&articleID=CA525341> (September 28, 2005).

[180] The FCC's most current report on multichannel video competition indicates that cable companies have approximately 72% of the multichannel video market. Approximately 85.1% of households with televisions subscribe to multichannel video programming. FCC 05-13, MB Docket No. 04-227, Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Eleventh Annual Report, ¶¶4, 8, released February 4, 2005.

These developments suggest that both wireless and cable networks are well positioned to provide the basis for vigorous head-to-head competition with traditional wireline companies. The advancement of broadband technology has allowed each of the different technologies—wireline, wireless, and cable—to provide voice, video, and data services in varying degrees. In addition, by partnering with other providers, each competitor can add services and convenience in an effort to appeal to a wide variety of consumers on a one-stop-shopping basis. Cable and wireline companies, for example, can provide mobility by offering or partnering with wireless providers. It is impossible to predict whether this type of competitive environment will be widespread, but the future looks promising for expanded competitive choice for many consumers.

CHAPTER V: DISCUSSION OF CHAPTER 364, F.S. REQUIREMENTS

A. INTRODUCTION

Section 364.386(1), F.S., requires the Commission to address six points in its evaluation of the status of local wireline telecommunications competition in Florida. With these issues in mind, staff sent data requests to all CLECs and ILECs certificated as of May 31, 2005. The CLEC data request consisted of two parts. The first part was a questionnaire designed to obtain qualitative information including, for example, the types of services offered, the services included in bundles and their rates, the CLECs' opinions regarding the TRRO, industry consolidation, and any barriers experienced in entering Florida's local exchange market. The second part was a series of data tables to be completed by facilities-based CLECs (UNE-P and resale information was provided by the ILECs in an effort to reduce the CLECs' reporting burden). This chapter addresses the statutory questions and summarizes some of the feedback provided by CLECs in response to the qualitative questions. This chapter also summarizes BellSouth's and Verizon's responses to a data request question that asked the ILECs to provide any comments, suggestions, or information that would aid the Commission in evaluating and reporting on the development of local exchange competition in Florida.

A 1997 amendment to Section 364.161(4), F.S., mandates that the Commission maintain a file of all CLEC complaints against ILECs regarding timeliness and adequacy of service in the provisioning of UNEs, services for resale, requested repairs, and necessary support services. This information, including the resolution of each complaint is included in Appendix D.

The Commission recognizes that, for many consumers, wireless and VoIP service options represent legitimate substitutes for wireline services. However, only wireline telecommunications providers are under the regulatory authority of the Florida Public Service Commission. Thus, the Commission is limited in its ability to gather certain types of information from providers of these nonjurisdictional services. As a result, the ability to present a complete analysis of the required statutory issues is somewhat compromised. However, through sources available in the public domain, staff 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 issues.

The Commission is required to address the following points in its analysis of the status of 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.

B. DISCUSSION OF SIX STATUTORY ISSUES

1. The Overall Impact of Local Exchange Telecommunications Competition on the Continued Availability of Universal Service.

Universal Service is the longstanding concept that a specified set of telecommunications services should be available to all customers at affordable rates.[181] 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 period to any person requesting such service within a company's service territory until January 1, 2009. Section 364.025(4), F.S., mandates 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." In compliance with this section, the Commission submitted its report, *Universal Service in Florida*, to the Governor and Legislature in December 1996. At the direction of the Legislature, universal service issues were revisited in the *Universal Service and Lifeline Funding Issues* report submitted in February 1999.

Through year-end 2004, 93.4% of Florida households subscribed to local telephone service, a rate similar to the national average of 93.8%.[182] This represents a slight decrease in the rate of Florida households that subscribed to local telephone service from 94.6% in 2003 and 94.3% in 2002.[183] Households with annual incomes of less than $15,000 decreased telephone subscribership from 91.7% in 2003 to 91.5% in 2004.[184] Nationally, the number of households receiving Lifeline Assistance, an assistance plan that allows for up to a $13.50 credit on monthly

[181] Exactly what should constitute that "specified set" of services is hotly debated in the national arena.
[182] FCC, "Telephone Subscribership in the United States," May 25, 2005, Table 3, p. 20, <http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/subs0305.pdf> (September 28, 2005).
[183] Ibid, Table 3, pp. 18-20. Most recent data for the period December 1, 2004 through March 31, 2004, indicates a drop in the penetration rate nationally of 1.4% from the preceding period and a Florida-specific drop of 1.8%. This is a significant change for a single four-month period and warrants further attention in future periods.
[184] Ibid, Table 3, pp. 29-30.

telephone charges, increased by 4.9% from 2003 to 2004.[185] From December 2003 through September 2004 Lifeline subscribership in Florida increased approximately 3.4%.[186]

It is significant that FCC survey data[187] shows a drop in telephone penetration for both Florida and the U.S. for 2004. In an attempt to recognize the increasing possibility that survey respondents may be substituting wireless and VoIP services for wireline service, the survey questions were changed in December 2004. The new questions increase the likelihood that respondents would answer affirmatively if they had the capability to make and to receive calls regardless of the technology used to make and receive the calls. It is conceivable that, prior to the redesign of the survey questions, respondents that had discontinued wireline service in favor of wireless or VoIP were not responding positively and thus penetration rates through 2004 may be understated. Conversely, the new FCC survey questions focus on the ability to make and to receive calls rather than whether the respondent has a telephone instrument. The old question may have lead to an affirmative response if a telephone handset was in the home but was inoperative. In this case, the data would overstate penetration rates.

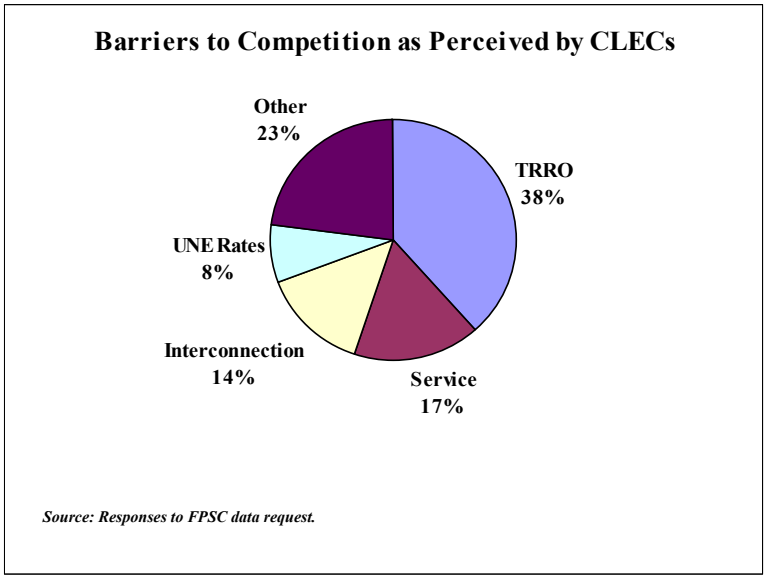
While it is a concern that FCC survey data reflects a decline in penetration, it is unclear at this time whether this represents a true decline in the availability of telephone service in U.S. households or a reflection that the survey instrument is not correctly accounting for the substitution of new technologies for wireline telephone service. In any event, it may be premature to assume that a slight drop in measured telephone penetration rates is cause for alarm. Clearly, wireless, prepaid telephone services, and VoIP services are providing viable consumer alternatives. Thus, staff concludes that local exchange wireline competition has not greatly impacted the continued availability of universal service.

2. The Ability of Competitive Providers to Make Functionally Equivalent Local Exchange Service Available to Both Residential and Business Customers at Competitive Rates, Terms, and Conditions.

The Commission surveyed the 428 CLECs certificated as of May 31, 2005. Of the 380 respondents, 182 indicated that they were currently providing service in Florida. CLECs were asked to discuss any perceived barriers to competition in Florida and to describe any significant obstacles that may be impeding the growth of local competition in the state. The primary issues identified by the respondents are shown in Figure 25.

[185] FCC, "Trends in Telephone Service Report," June 2005, <http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/trend605.pdf> (September 28, 2005).
[186] FPSC, "Number of Customers Subscribing to Lifeline Service and the Effectiveness of Any Procedures to Promote Participation," *A Report to the Governor, President of the Senate, Speaker of the House of Representatives*, December 2004, Table 2, p. 4.
[187] FCC data contained in the Telephone Subscribership in the United States report is developed from the Current Population Surveys conducted by the U.S. Department of Commerce, Bureau of the Census.

Figure 25



TRRO – The most frequently reported barrier to entry was issues relating to the TRRO. CLEC allegations included lack of access to new UNE-P lines, lack of ILEC cooperation in negotiating commercial agreements, and increased costs resulting from the TRRO. As the TRRO is a relatively new development, this category was not one of last year's top reported barriers.

Service – The second most commonly listed barrier to entry was service problems. This category includes allegations about service from the ILEC to the CLEC and from the ILEC to the CLEC's customers. Issues reported include ILEC delays in processing orders and resolving service issues and ILEC personnel lacking specific knowledge about products.

Interconnection Agreements – Another barrier to entry was interconnection agreements. CLEC allegations included ILEC refusal to negotiate and refusal by ILECs to interconnect to their networks on fair, reasonable, and nondiscriminatory terms. Last year, interconnection agreements was the most frequently reported barrier to entry.

UNE Rates – UNE pricing was another barrier to entry reported by CLECs. UNE rates was the second most commonly listed barrier to entry identified by CLECs last year and the most common barrier listed two years ago. CLEC allegations included UNE-P rates so high that they impede competition.

Other – CLECs identified several other issues as barriers that did not necessarily fit into one of the major categories previously discussed. These issues included win back programs, industry consolidation, ILEC slamming, and access to E911.

Pursuant to Section 364.161(4), F.S., the Commission handles CLEC complaints filed against ILECs. The number of complaints has steadily declined for the past four years, from 81 (filed July 1, 2001 to June 30, 2002) to 13 (filed June 1, 2004 to May 31, 2005).

The Commission received 616 negotiated agreements[188] and 11 requests for arbitration between June 1, 2004 and May 31, 2005. Since June 1996, the Commission has reviewed and approved 3,541 negotiated interconnection agreements.

The Commission also asked the ILECs 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. BellSouth and Verizon responded to this request.

- BellSouth and Verizon emphasized the importance of intermodal competition in analyzing local competition in Florida, with both ILECs providing information on wireless penetration and the substitution of wireless for wireline. BellSouth noted a decline in access minutes.

- BellSouth and Verizon included a discussion of cable operators as local service competitors, specifically referring to Advanced Cable, Bright House, Comcast, Cox, and Knology.

- BellSouth noted that it uses the quantity of E911 listings to estimate CLEC lines not served by BellSouth end offices. This method increases the CLEC market share in BellSouth territory to 15% for residential and 42% for business as of March 2005. This compares to the Commission's calculation of 13% for residential and 36% for business as of May 31, 2005.[189]

- Verizon recommended the use of the (telephone) Numbering Resource Utilization Forecast (NRUF) report to calculate CLEC market share.[190]

- Verizon described its deployment of fiber-to-home or premises, which has begun to enable it to provide voice, data, and video (including content) to its customers.

In previous years, the analysis of this statutory requirement has focused primarily on the wireline sector of the telecommunications market. As noted throughout this report and the 2004 report, wireless and, to a lesser extent, VoIP competition, 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, increasing numbers of customers are replacing traditional wireline service with these options and, therefore, staff must conclude that they are providing functionally equivalent local exchange service to residential and business customers regardless of the existence of any barriers to entry that may be affecting them.

[188] This number is tracked internally by the Commission based on filing dates. It has been represented by BellSouth that this number includes a substantial number of agreements that were inadvertently not timely filed in the 2004 reporting period and therefore significantly overstates 2005 activity.

[189] The Commission researched the use of the E911 database in its 2002 report and concluded that there were numerous logistical (e,g, there is not one single database for Florida, instead it is by county) and legal issues (e.g., confidentiality of the E911 data) that must be overcome before this data could be used.

[190] The Commission researched the use of the NRUF report in its 2002 report and concluded that two main issues make use of this report problematic. First, NRUF reports the number of telephone numbers rather than the number of access lines. Generally speaking, there are more telephone numbers than access lines. The second issue is the inability to separate resold telephone numbers from the ILECs' numbers.

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 more complex than in previous years. Customers may obtain what they consider functionally equivalent services via wireline telephony, wireless telephony, VoIP, or cable telephony. This issue is analyzed primarily with respect to the provision of wireline telecommunications by ILECs and CLECs – the companies subject to Commission jurisdiction.

As of May 31, 2005, 182 CLECs reported that they were currently providing local telecommunications service in Florida in some capacity. Appendix A lists the responding CLECs, the class of customer each CLEC serves, and the methods by which each CLEC provides service. CLECs can offer service through resale of an ILEC's or wholesaler's products, facilities-based provisioning by using its own facilities, unbundled network elements (UNEs) leased from an ILEC, or a combination of two or more methods.

Table 7 shows CLEC providers by Florida Local Access and Transport Areas (LATAs). As was the case last year, the table shows that CLECs continue to target areas with large concentrations of customers. The table lists the state's ten LATAs, the number of local exchange areas within the LATA served by a local telephone company, and the number of exchanges within a LATA that do not have any competitive entrants.

Table 7 CLEC Providers by Florida LATA

LATA	Exchanges in LATA		Exchanges without competitive entrant		Area Codes Serving LATA	
	2004	2005	2004	2005	2004	2005
Daytona	10	10	0	0	386	386
Ft. Myers	31	31	0	0	863,941,941 to 239	863,941, 239
Gainesville	49	49	2	1	352,850,904	352,850,904
Jacksonville	43	43	0	0	386,904	386,904,352
Mobile, AL	2	2	1	1	850	850
Orlando	23	23	1	0	321,386,407,407	321,386,407,689
Panama City	35	35	5	4	850	850
Pensacola	23	23	3	2	850	850
Southeast	25	25	1	0	305,561,561 to 772,754,786,954	305,561,561 to 772, 754,786,954
Tallahassee Area	12	12	0	0	850	850
Tampa Area	24	24	0	0	727,813,863,941	727,813,863,941

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.[191] Table 8 shows that customers appear to have access to services at a variety of rates as competitors have developed pricing strategies to gain customers. Strategies may include overall discounts and matching an ILEC's price.

[191] Our analysis is primarily focused on wireline telecommunications issues. Customers may obtain what they consider functionally equivalent service via other platforms.

Table 8 Local Rates for Selected Florida CLECs and ILECs as of May 31, 2005*					
CLEC Rates			ILEC Rates		
CLEC	**Residential**	**Business**	**ILEC**	**Residential**	**Business**
Supra Telecommunications and Information Systems, Inc.	$10.95	$27.95	BellSouth	$7.85-$11.32	$20.55-$30.20
Tallahassee Telephone Exchange	$9.65	$19.99	Sprint	$9.20-$12.35	$18.35-$25.65
American Fiber Networks	$10.75-$12.00	$25.25-$30.00	Verizon	$10.70-$12.10	$25.00-$30.54
Orlando Telephone Company	$11.50	$25.00	BellSouth Sprint	$7.85-$11.32 $9.20-$12.35	$20.55-$30.20 $18.35-$25.65
Access Point, Inc.	$6.30-$9.19	$17.09-$25.12	BellSouth	$7.85-$11.32	$20.55-$30.20
* Rates shown are for the lowest and highest rate groups for basic local service.					

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 gives customers local calling and 911 access in exchange for a prepaid monthly fee, but customers must agree to block long distance, 900-numbers, and directory assistance calls. CLEC responses indicate that prices for prepaid service range from approximately $25.95 to $70.95 per month for residential customers and from $39.99 to $89.99 per month for business customers. Telephone companies providing only prepaid telephone services account for 39 of the 182 companies providing local service in Florida.

As noted throughout the report, wireless and Internet-based VoIP communications services are alternatives to wireline telecommunications services that are growing in popularity. The attractiveness of these alternatives is based on price as well as convenience and the availability of unique features. As discussed previously, it is difficult to obtain detailed information regarding the penetration levels of these services in Florida. However, previous analysis gives credence to the notion that small but significant numbers of Florida households have substituted wireless service and, to a lesser, degree VoIP-based services for wireline services. This is evidenced by the fact that total residential access lines for Florida ILECs have steadily declined since the 2002 report despite the continuing increase in the number of Florida households.[192]

The FCC reports that the annual average penetration rate for telephone service has continued to increase over that period until its most recent release of 2004 information.[193] Based on these facts, as well as the frequent reports in industry publications that wireless-only households have grown to about 6 percent of total households nationwide, it seems likely that Florida is also experiencing this phenomenon.[194] In fact, given that a significant portion of Florida households are transient in nature, either seasonal visitors with second homes or college

[192] U.S. Census Bureau, Table 1: Annual Estimates of Population for the United States and Puerto Rico: April 1, 2000 to July 1, 2004 (NST-EST2004-01), Source: Population Division, December 22, 2004.
[193] FCC, "Telephone Subscribership in the United States," May 25, 2005, Table 1, <http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/subs0305.pdf> (September 28, 2005).
[194] Blumberg et. al, "The Prevalence and Impact of Wireless Substitution: Updated Data from the 2004 National Health Institute Survey," Center for Disease Control and Prevention, presented May 14, 2005, at the Annual conference of the American Association for Public Opinion Research, presentation summary.

students, it is possible and even likely, that the percentage of Florida households with wireless-only service is higher than national estimates.

Based on the preceding analysis, many Florida consumers are finding communications alternatives to wireline services that are functionally equivalent and comparable in price, terms, and conditions. Thus, staff concludes that Florida customers are able 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.

In 2003, the Governor signed into law "The Tele-Competition Innovation and Infrastructure Enhancement Act of 2003" (the 2003 Act). The law is designed to provide further impetus for development of a more competitive telecommunications market in Florida, most notably impacting the ILECs and IXCs.

The 2003 Act provided that ILECs could petition the Commission to reduce their intrastate switched network access charges to levels equal to their interstate access charges in effect on January 1, 2003. The 2003 Act provided that access charge rate reductions were to be offset with increases to basic local residential exchange service and single-line business local exchange service in a manner that would be revenue neutral to the company. The 2003 Act also required that IXCs reduce their intrastate long distance rates in an amount equal to the reduction in switched network access charges.

BellSouth, Sprint, and Verizon each filed petitions in October 2003 to reduce their intrastate switched network access charges and increase their basic local service rates in a manner revenue neutral to the company. The Commission subsequently approved the petitions of BellSouth, Sprint, and Verizon and issued its order approving the petitions on December 24, 2003.[195] On January 7, 2004, Florida's Attorney General, Charles J. Crist, and Public Counsel, Harold McLean, filed an appeal of the Commission's Order to the Florida Supreme Court. The appeal stayed the Commission's Order pending resolution of the appeal. On July 7, 2005, the Supreme Court confirmed the Commission's Order and rejected the appeals.

The Florida Supreme Court's decision confirming the Commission's Order on the access charge/rate rebalancing petitions of BellSouth, Sprint, and Verizon paves the way for these companies to proceed with reducing switched network access charges and increasing basic local service rates as specified in the Order. BellSouth, Sprint, and Verizon filed notice to initiate the rate changes on September 16, 2005, with an implementation date of November 1, 2005.

Section 364.051, F.S., provides that an ILEC may adjust its basic service prices once in a 12-month period by an amount not to exceed the change in inflation less one percent. The following ILECs filed notices of rate changes for basic and nonbasic services between June 1, 2004 and May 31, 2005, pursuant to the provisions of Section. 364.051, F.S.:

[195] Order No. PSC-03-1469-FOF-TL, Docket Nos. 030867-TL, 030868-TL, and 030867-TL, December 24, 2003.

- ALLTEL increased basic residential and business service rates and nonbasic business service rates by 0.91%;

- BellSouth increased basic residential and business service rates by 0.53%, on average, and nonbasic business service rates by 0.56%, on average. BellSouth has also restructured many calling areas, expanding flat rate calling for those customers.

- Verizon increased basic residential and business service rates by 0.87%, on average, and nonbasic business service rates by 2.12%, on average;

- GT Com increased basic residential and business service rates and nonbasic business service rates by 1.35%; and

- Sprint restructured and increased basic residential and business service rates by 0.47%, on average, and nonbasic business service rates by 0.76%, on average.

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.

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 exchange company, such terms 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."

As noted throughout the report, wireless and VoIP services are gaining popularity as substitutes for wireline telephone services. The FCC has required wireless telecommunications providers and VoIP service providers 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.[196] While these services do provide the same or similar functionality to traditional wireline service, they do not currently fall within the statutory definition of basic local telecommunications service. Wireless or commercial mobile radio service providers are expressly exempted from the statutory definition of a telecommunications company,[197] and VoIP is expressly excluded from the statutory definition of service.[198]

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

6. Any Other Information and Recommendations That May be in the Public Interest.

There are no recommendations at this time.

[196] FCC 04-28, WC Docket No. 04-36, "In the Matter of IP-Enabled Services, NPRM," March 10, 2004.
[197] Subsection 364.02(13)(c), F.S..
[198] Subsection 364.02(12), F.S.

CHAPTER VI: STATE ACTIVITIES

A. RECENT CHANGES IN THE LAW

The 2005 Florida Legislature passed several significant changes to laws relating to telecommunications markets and regulatory oversight in Florida. These changes were primarily incorporated in two bills. One bill was related to Communications Services Tax changes and the other was a combination of several bills that were consolidated into a single bill in the final days of the legislative session.

1. Committee Substitute/Senate Bill (CS/SB) 2070 on Communications Services Tax

The Communications Services Tax is a consolidated tax applied to the sales of communications services and equipment that is comprised of state sales taxes and local government taxes. Prior to the advent of competition in the telecommunications industry, the law contained a provision to tax "substitute communications systems." This provision was designed to serve as a disincentive to consumers of telecommunications services to purchase and manage their own telecommunications network. In today's competitive telecommunications market, such a disincentive is unnecessary. Furthermore, with the developments in technology, the statute could have been interpreted to apply to applications such as home computer networks or intercoms. The new law repeals the "substitute communications system" definition and the tax on substitute communications systems as set out in Section 202.12, F.S.

The law further creates a Communications Services Tax Task Force to be housed, for administrative purposes, within the Department of Revenue, but to operate independently of the department. The task force is to consist of nine members, three appointed by the Governor, three by the Senate President, and three by the House Speaker. Topics the task force shall study are as follows:

- The national and state regulatory and tax policies relating to the communications industry, including the Internet Tax Freedom Act;
- The levels of tax revenue that have been generated by the Communications Services Taxes imposed or administered in Chapter 202 in the past and that are expected to be generated in the future;
- The impact of the Communications Services Taxes on Florida's competitiveness;
- The impact of the diversity of communications technology and of changes in such technology on the state's ability to design tax laws;
- The administrative burdens imposed on communications services providers; and

- Explore alternative options that are available for funding government services if future revenues from the Communications Services Tax are expected to be inadequate.

The task force will hold its organizational meeting by July 15, 2006. The Commission shall provide staff for the technical and regulatory issues, and the Department of Revenue shall provide administrative support and staff for the tax issues. The task force will report its findings and recommendation to the Governor, Senate President, and House Speaker by February 1, 2007.

The Act became law effective July 1, 2005.

2. CS/CS/SB 1322

CS/CS/SB[199] 1322 consolidated four Senate bills: SB 2068 on Commission Jurisdiction and Advanced Services, SB 1320 on Lifeline, SB 2072 on Government Provision of Communications Services, and SB 2232 on Storm Damage Recovery.

a. Communications Services Offered by Governmental Entities

Many local governments and communities view the availability of communications services and, in particular, broadband Internet access as critical to such local issues as economic development, efficient delivery of government and social services, public school access, and access for unserved or underserved citizens. As a result, a growing number of local governments in Florida and elsewhere have invested in the necessary infrastructure to make such services available to their respective communities and, in so doing, placed themselves squarely in competition with private enterprise for the provision of such services.

Opponents argue that if private enterprise is willing to provide the same service, it is much more appropriate for them to bear the risk associated with the necessary investment. In addition, local government investment in a broadband Internet access network may not be the best use of public funds given the array of objectives they are generally expected to address. Finally, local governments are better able to acquire low cost capital to fund such an investment providing an advantage over private enterprise that must obtain such funding on the open market at a generally higher cost.

In recognition of the complexity of this issue, the 2005 Florida Legislature attempted to balance the legitimate concerns of both local government and private communications providers in the new law. Section 350.81, F.S., Communication services offered by governmental entities, is designed to establish checks and balances on local governments to ensure accountability, to protect citizens from undue risk, and to establish equal footing with private enterprise providers when such services are provided.

The new law addresses the process and procedures a governmental entity must follow in order to enter into the provision of communications services (which include "advanced services," "cable service," and "telecommunications service," construed in its broadest sense).

[199] The CS/CS/SB designation signifies that the original bill was modified by a committee before passage by both chambers of the Legislature.

b. Commission Jurisdiction and Advanced Services

The primary thrust of changes to Chapter 364 relates to clarification of the Commission's jurisdiction regarding advanced services, including broadband and VoIP services. The new law specifies that, except to the extent delineated in Chapter 364 F.S., communications activities not regulated by the Commission, include but are not limited to VoIP, wireless, and broadband, are subject to this state's generally applicable business regulation, deceptive trade practices, and consumer protection laws (ss. 364.01(3), F.S.).

The powers of the Commission are amended to include the promotion of competition through encouragement of innovation and investment in telecommunications markets and by allowing a transitional period in which new and emerging technologies are subject to a reduced level of regulatory oversight (ss. 364.01(4)(d), F.S.).

The new law also provides for specific exemptions from Commission oversight for the following services, except as delineated in the chapter or specifically authorized by federal law: intrastate interexchange telecommunications service; broadband services, regardless of the provider, platform, or protocol; VoIP; and wireless telecommunications, including commercial mobile radio service providers (s. 364.011, F.S.).

New Section 364.012, F.S., provides for consistency with federal law in the regulation of telecommunications services. The section provides that the Commission shall maintain continuous liaisons with appropriate federal agencies whose policy decisions and rulemaking authority affect those telecommunications companies over which the Commission has jurisdiction. The Commission is encouraged to participate in the proceedings of federal agencies in cases in which the state's consumers may be affected and to convey the Commission's policy positions and information requirements in order to achieve greater efficiency in regulation. The section does not limit or modify the duties of the local exchange carrier to provide unbundled access to network elements or the Commission's authority to arbitrate or enforce interconnection agreements as required under federal law (47 USC Secs 251, 252) at rates in accordance with FCC standards.

The new law also provides that broadband service and the provision of VoIP shall be free of state regulation, except as delineated in the chapter or as specifically authorized by federal law, regardless of provider, platform or protocol (Section 364.013, F.S.).

The definition of "service" has been modified to exclude broadband service, in addition to VoIP, from the definition. A definition of "broadband service" has also been added. These definitional changes result in clearly removing broadband and VoIP services from regulatory oversight of the Commission.

c. Lifeline

Due to its concern over the effects of competition on affordable rates, the Legislature implemented new provisions designed to increase Lifeline awareness and participation. New subsections 364.10(2) and (3) were added to provide for specific Lifeline requirements relating

to determining and to maintaining eligibility and the terms and conditions for service for Lifeline subscribers. The new law also changes the applicability of the Lifeline provisions of the bill from telecommunications companies to Eligible Telecommunications Carriers, or ETCs, as defined in 47 C.F.R. Section 54.201.[200] The bill limits applicability of the provisions to those ETCs that have been designated by the Commission.[201]

The new law also provides that the Commission will establish procedures for notification and termination of Lifeline benefits. It provides that Lifeline benefits are to appear on a subscriber's bill no later than 60 days following notification of eligibility by the Office of Public Counsel (OPC) or proof of eligibility from the customer. The legislation requires the Commission to adopt rules to administer the section.

The bill also modified the existing income eligibility criterion threshold from 125% to 135% of the federal poverty guideline. This threshold applies only to those companies that have had access charge reduction petitions approved by the Commission pursuant to Section 364.164, F.S.

d. Storm Damage Recovery

New subsection 364.051(4)(b), F.S., was added to permit the recovery of costs and expenses related to damage occurring to the lines, plant, or facilities of a local exchange telecommunications company that is a result of a tropical system named by the National Hurricane Center. Such an event, occurring after June 1, 2005, shall constitute a compelling showing of changed circumstance pursuant to this section. The bill became law June 2, 2005.

All but one ILEC in Florida is subject to price cap regulation and, without a finding of changed circumstance under subsection 364.051(4)(a), F.S., would not be permitted to increase rates in a sufficient amount to recover any significant expenses related storm damage restoration. Other competitive carriers would have the freedom to raise rates as necessary to recover storm related expenses.

The law provides that a local exchange company may file a petition to recover intrastate costs and expenses relating to repairing, restoring, or replacing lines, plants, or facilities damaged by a named storm. The Commission shall verify the intrastate costs and expenses submitted by the company and determine whether the intrastate costs and expenses are reasonable under the circumstances.

The Commission may determine the amount of any increase that the company may charge its customers; however, the charge per line item may not exceed 50 cents per month per customer line for a period of not more than 12 months. A company may file only one petition for storm recovery in any 12-month period for the previous storm season; however, the petition may cover damage from more than one storm.

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[200] This change recognizes that at least one competitive local exchange company has been designated as an ETC by the Commission and is, therefore, entitled to receive federal universal service support. Part of the obligation of ETC status is that the company is required to provide Lifeline and Linkup benefits as provided for by state and federal laws and regulations.

[201] At least two wireless companies operating in Florida have been granted ETC status in Florida by the FCC. The statute does not appear to apply to those carriers since their ETC status was not designated by the Commission.

B. WHOLESALE PERFORMANCE MEASUREMENT PLANS

The Commission has developed wholesale performance measurement plans for the ongoing evaluation of operations support systems (OSS) provided for CLECs' use by ILECS. The performance measurement plans provide a standard against which CLECs and the Commission can measure performance over time to detect and to correct any degradation of service provided to CLECs. The Commission adopted performance measurements for BellSouth in August 2001, for 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 reviews each ILEC's performance measurement plan at recurring intervals.

For BellSouth, the Commission established wholesale performance measurements (also known as Service Quality Measurements or SQM) as well as a system of remedy payments called the Self-Effectuating Enforcement Mechanism (SEEM) plan. Remedy payments are applied if BellSouth fails to meet performance standards for key measurements as set by the Commission. From June 2004 to May 2005, BellSouth paid more than $18 million in SEEM remedies to CLECs and to the State of Florida. The hurricanes of 2004 led to a claim by BellSouth of *force majeure,* substantially lowering remedies from August to November. Additionally, commercial agreements have resulted in a steady monthly reduction in aggregate penalties paid to CLECs beginning in January 2005. BellSouth, CLECs, and Commission staff worked diligently throughout 2004 and 2005 to resolve issues in the SQM and SEEM plans. A stipulation was signed by participating parties in May 2005. The stipulation was protested by a CLEC in June 2005. The protest was withdrawn in August 2005. In 2004, staff also initiated a third-party audit of BellSouth's performance assessment plan. This audit produced findings that Commission staff used to recommend a series of remedial actions for BellSouth to improve its performance. BellSouth is currently implementing recommendations from the audit.

Sprint began reporting monthly performance results in 2003. In September of that year, staff conducted the initial six-month review of Sprint's performance measures to address proposed revisions to Sprint's performance measurement plan. The revisions were adopted by the Commission in January 2004. Today, in addition to reporting monthly performance results, Sprint prepares a monthly root cause analysis report of measurements that have not met established standards for three consecutive months. The root cause analysis report highlights problematic performance measures, proposes remedial actions, and establishes a timeline for each correction.

Verizon operates in Florida under a common set of performance and administrative measures contained in a Joint Partial Settlement Agreement derived from a process in California and used, with some state-specific variation, in several states. Under this program, Verizon furnishes monthly performance reports to the Commission for review and assessment.

C. SERVICE QUALITY DOCKETS AND INCUMBENT LOCAL EXCHANGE COMPANIES

On March 16, 2005, the Commission approved the adoption of revisions to the Service Quality Rules. Rules no longer necessary due to technological changes, as well as competition, were eliminated. Rules that were ambiguous were clarified and the option of a company

adopting a Service Guarantee Program was added. The revised rules apply only to residential service, they no longer apply to single line business service.

ILECs are required by rule to consistently meet standards established to ensure their customers receive a high quality of service. Commission standards, for example, require a company to restore interrupted service within 24 hours in 95% of the instances reported. Commission standards also require an ILEC to install new service in three working days from receipt of an application 90% of the time. The Commission conducts field evaluations of ILECs to verify compliance with the Commission's service standards. Each ILEC is required by rule to submit quarterly reports to the Commission detailing its compliance with the established service standards.

1. Sprint

On August 30, 2005, the Commission approved modifications and an indefinite extension of the Service Guarantee Program.[202] The modifications reflect evolving competitive conditions in the industry consistent with the Commissions revisions of the service quality rules. From July 2004 through June 2005, Sprint paid its customers a total of $592,275 for missing the service installations standard and $1,503.084 for missing the out-of-service repair standard. In addition, it has posted $105,000 in the Community Service Fund for missing the business office answer time and the repair answer time. The Community Fund is for promoting Sprint's Lifeline service.

2. BellSouth

On February 13, 2002, the Commission approved an agreement between BellSouth and OPC similar to the Sprint settlement.[203] The settlement established automatic fixed credits to customers for missed commitments on service installation and an increased credit to customers for missed out-of-service repairs. On March 31, 2005, the Commission approved modifications and an indefinite extension of the Service Guarantee Program.[204] It has also added a contribution to the Lifeline service fund for missing the answer time for either the Business Office or Repair Service. For the period from July 2004 through June 2005, BellSouth paid its customers $399,825 for missed installations and $2,146,201 for missed out-of-service repairs.

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

As competition evolves, it typically does so in an uneven fashion. This can mean that some consumers will experience benefits faster than others. Communications markets in Florida also reflect this characteristic. For this reason, the Florida Legislature has placed an emphasis on ways to make Lifeline benefits more accessible to a greater number of eligible consumers in recent years. The Commission continues to support the Lifeline and Link-Up programs. The intent of these programs is to increase subscribership for low-income households that want, but cannot afford, telephone service. The Commission is also actively engaged with the FCC, the

[202] Order No. PSC-05-0918-PAA-TL, released September 19, 2005, in Docket No. 050490-TL.
[203] Order No. 02-0197-PAA-TL, released February 13, 2002, in Docket No. 010097-TL.
[204] Order No. PSC-05-0440-PAA-TL, released March 31, 2005, in Docket No. 050095-TL.

Universal Service Administrative Company (USAC), and the Universal Service Joint Board regarding the Lifeline and Link-Up programs. In addition, the Commission has monitored and implemented statutory changes, in coordination with various public, private, and telecommunications industry participants, to improve the Lifeline and Link-Up programs. The State of Florida recently implemented two significant changes to its Lifeline and Link-Up programs consistent with the FCC's April 29, 2004 Order regarding Lifeline and Link-Up.[205]

The Commission approved the settlement agreement proposals filed by BellSouth, Sprint, and Verizon, which implemented a simplified Lifeline and Link-Up certification process.[206] The new process allows eligible Lifeline and Link-Up customers to enroll in the programs by simply signing a document certifying, under penalty of perjury, that the customer participates in one of the Florida Lifeline and Link-Up qualifying programs and identifying the qualifying program. The Order also established a one-year trial period in order to allow all parties to assess the costs associated with the simplified certification process and to determine the corresponding benefits in terms of increased subscribership. In addition, the Commission approved BellSouth's proposal to add the National School Lunch's free lunch program to its Lifeline and Link-Up eligibility criteria.[207] Sprint has also added the National School Lunch's free lunch program as a criteria,[208] and Verizon recently filed a tariff to add the National School Lunch program criteria.

Activities to promote Lifeline and Link-Up in Florida have been occurring since 1995. Section 364.0252, F.S., requires the Commission to inform consumers of the availability of the Lifeline and Link-Up programs. The Commission publishes a variety of educational materials, including brochures and posters in English, Spanish, and Haitian Creole. These documents are distributed through state agencies, such as the Department of Children and Families and the Department of Health, that may come in contact with individuals who are eligible for Lifeline benefits. The Commission also distributes these documents through public schools, through utility-related public meetings and hearings conducted by the Commission, and through a variety of other groups through agency outreach efforts. In addition, these brochures and information relating to Lifeline benefits are available through the Commission's website.

The Tele-Competition Innovation and Infrastructure Enhancement Act of 2003 (the 2003 Act) included a provision regarding the promotion of the Lifeline and Link-Up programs. The 2003 Act required the development of procedures to promote Lifeline and Link-Up participation through a cooperative effort involving the Commission, the Department of Children and Family Services, and the telecommunications companies providing Lifeline and Link-Up service. Since 2003, various local, state, and federal agencies, nonprofit organizations, businesses, and telecommunications companies have been working together on the Lifeline project to develop and to implement promotional procedures. This project has resulted in a comprehensive, collaborative process to develop promotional procedures that have a statewide impact. The 2005 Legislature further amended the law to include the Department of Education and the Office of Public Counsel as state agencies that should be included in promoting Lifeline and Link-Up participation.

[205] FCC 04-87, WC Docket No. 03-109, "In the Matter of Lifeline and Link-Up, April 29, 2004.
[206] Order No. PSC-05-0153-AS-TL, issued February 8, 2005, in Docket No. 040604-TL.
[207] Order No. PSC-05-0440-PAA-TL, issued April 25, 2005, in Docket No. 050095-TL. A complete list of Lifeline eligibility criteria appears as Appendix F.
[208] Order No. PSC-05-0918-PAA-TL, issued September 19, 2005, in Docket No. 050490-TL.

E. ELIGIBLE TELECOMMUNICATIONS CARRIERS

Federal Communications Commission rules allow state commissions, upon their own motion or upon request, to designate a common carrier that meets certain requirements as an Eligible Telecommunications Carrier (ETC). A carrier that is granted ETC status is eligible to receive federal universal service support pursuant to FCC rules.[209] 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 utilizing a media of general distribution.

The state commission may, as long as the request is consistent with the public interest, convenience, and necessity, designate one or more common carrier(s) as ETC(s) for a service area. All ILECs in Florida have been designated as ETCs by the Florida Public Service Commission.[210]

In April 2003, NPCR, Inc., d/b/a Nextel Partners (Nextel) and ALLTEL Wireless Holdings, L.L.C. (ALLTEL), both of which are commercial mobile radio service (CMRS) providers, requested a declaratory statement as to whether the Commission had jurisdiction to designate CMRS carriers as ETCs for the purpose of receiving federal universal service support in the State of Florida. On September 23, 2003, the Commission acknowledged that Nextel and ALLTEL, as Florida CMRS operators, were not subject to the jurisdiction of the Commission for the purpose of designation as ETCs.[211] Accordingly, the Commission determined that CMRS ETCs in Florida are subject to the rules and jurisdiction of the FCC. Sprint PCS, Nextel, and ALLTEL wireless carriers have all been granted ETC designation in Florida by the FCC.

On November 12, 2004, Knology of Florida, Inc. (Knology), a competitive local exchange company, petitioned the Commission for designation as an ETC in the State of Florida. Specifically, Knology requested that it be granted ETC status in the nonrural BellSouth exchanges of Panama City, Panama City Beach, and Lynn Haven. Additionally, Knology requested ETC status in the nonrural Verizon exchanges of Clearwater, St. Petersburg, and Dunedin in Pinellas County. This was the first CLEC ETC petition brought before the Commission for consideration. After reviewing pertinent information received from Knology and affirming that the company met the criteria as set forth in the 1996 Telecom Act, the Commission approved the company's request for designation as an ETC on April 15, 2005. [212]

On July 11, 2005, Budget Phone, Inc. (Budget) filed a petition with the Commission requesting designation as an ETC. The company is a Florida-certificated telecommunications company that provides local exchange and exchange access services in the Sprint, Verizon, and BellSouth service areas. Budget's petition is under review by Commission staff.

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[209] 47 C.F.R. pt. 54 – Universal Service.
[210] The incumbent local exchange companies were designated as ETCs for purposes of the federal universal service program through Order No. PSC-97-1262-FOF-TP, issued October 14, 1997.
[211] Order No. PSC-03-1063-DS-TP
[212] Order No. PSC-05-0324-PAA-TX, Docket No. 041302, March 21, 2005.

On August 8, 2005, Ganoco, Inc., dba American Dial Tone, also filed a petition with the Commission requesting designation as an ETC.[213] American Dial Tone provides residential services in BellSouth, Sprint, and Verizon exchanges.

F. 2004 HURRICANE SEASON AND STORM RECOVERY

On May 25, 2005, Sprint-Florida, Incorporated (Sprint) filed a Petition for Approval of a Storm Cost Recovery Surcharge and Stipulation (Stipulation) with the Commission.[214] The Stipulation involved an agreement between Sprint and the Office of Public Counsel (OPC) regarding the maximum amount of relevant costs that should be considered for surcharge recovery as a result of the 2004 hurricanes.

Under the law in effect as of the date of Sprint's petition, local exchange companies subject to price regulation under Section 364.051, F.S., are only permitted to increase their rates for basic local service once annually, pursuant to Subsection 364.051(3), F.S. Sprint filed its Petition pursuant to Subsection 364.051(4), F.S., which allows for increases as a result of changed circumstances. It is incumbent on the petitioner to demonstrate what those changed circumstances would be, and the Commission, as a matter of law, must act on the petition within 120 days. Such an increase would be in addition to any increase a company implemented under its permitted annual increases under Subsection 364.051(3), F.S.

To expedite the processing of this docket, the Commission addressed Sprint's Petition in two phases. The first phase addressed the factual issues including: the number of access lines to be used in calculating the maximum monthly surcharge, if one is approved; the level of interest or carrying costs subject to collection, if any; and whether the Stipulation should be accepted.

The Commission approved the Stipulation between Sprint and OPC establishing a ceiling of $30,319,521 in storm restoration costs to be considered for recovery from Sprint-Florida basic wireline customers.[215] Additionally, the Commission found that use of a true-up mechanism was reasonable and in the best interest of Florida consumers as the true-up would ensure that Sprint would not collect more than the hurricane-related costs approved for recovery.

The second phase determined the amount of storm-related costs to be recovered from Sprint customers and how these amounts should be recovered from ratepayers. On September 20, 2005, the Commission found that the appropriate amount of hurricane cost recovery to be $30,319,521 to be recovered through a monthly surcharge of $0.85.[216]

[213] Docket No.050542-TX.
[214] Docket No. 050374-TL, Petition for approval of storm cost recovery surcharge, and stipulation with Office of Public Counsel, by Sprint-Florida, Incorporated.
[215] Order No. PSC-05-0735-PAA-TL, Docket No. 050374-TL, issued July 8, 2005.
[216] Order No. PSC-05-0946-FOF-TL, Docket No. 050374-TL, issued October 3, 2005.

G. TRANSIT TRAFFIC DOCKETS

These dockets[217] involve a dispute over transit traffic. Transit traffic originates on the network of one carrier, transits over a second carrier's network, and then terminates on the network of a third carrier. BellSouth has filed a new tariff, General Subscriber Services Tariff §A.16.1, Transit Traffic Service, which sets forth certain rates, terms, and conditions that apply when carriers receive transit service from BellSouth that have not otherwise entered into an agreement with BellSouth. BellSouth's transit tariff does not apply to a party with whom BellSouth has an existing contractual relationship because the tariff is a default in the absence of an existing contractual agreement.

On February 11, 2005, a joint petition objecting to and requesting suspension and cancellation of BellSouth's Transit Traffic tariff was filed by Florida's rural ILECs, known as the Joint Petitioners.[218] On February 17, 2005, AT&T Communications of the Southern States, LLC (AT&T) also filed a petition and complaint for suspension and cancellation of Transit Traffic Tariff No. FL 2004-284 filed by BellSouth.

On August 26, 2005, the Joint Petitioners filed another petition requesting that the Commission initiate a generic docket to ensure that all issues raised by BellSouth's Transit Tariff are identified and addressed. In addition, the Joint Petitioners asked that the Commission's decisions with respect to BellSouth's Transit Service be based on a complete record which includes the input and positions of all substantially affected telecommunications companies and third-party providers. BellSouth's response to this petition was filed on September 19, 2005.

At its October 18, 2005 Agenda Conference, the Commission denied staff's recommendations that the Commission grant the petition for a generic proceeding and expand the investigation to include Sprint and Verizon. The Commission concluded that it was not necessary to initiate a generic transit traffic docket. In addition, the Commission noted that the Joint Petitioners' and AT&T's proceedings should move forward with parties being mindful that all appropriate issues raised should be addressed so that the Commission is presented with a complete record. This matter will proceed to hearing in 2006.

[217] Docket Nos. 050119-TP, 050125-TP, and 050570-TP,

[218] TDS Telecom d/b/a TDS Telecom/Quincy Telephone, ALLTEL Florida Inc., Northeast Florida Telephone Company d/b/a NEFCOM, GTC, Inc., d/b/a GT Com, Smart City Telecom, ITS Telecommunications Systems Inc., and Frontier Communications of the South, LLC (Joint Petitioners). Docket No. 050119-TP was established in response to the petition filed by the Joint Petitioners.

CHAPTER VII: FEDERAL ACTIVITIES

A. THE FCC'S TRIENNIAL REVIEW REMAND ORDER ON UNE RULES

Under federal law, an incumbent local exchange company (ILEC) is required to offer unbundled network elements (UNEs) to competitive local exchange companies (CLECs) at cost-based rates if access to proprietary elements is "necessary"[219] to the CLECs' provision of local service or if the CLECs would be "impaired" without access to nonproprietary network elements.

On August 21, 2003, the FCC released its *Triennial Review Order* (TRO),[220] which contained revised unbundling rules and responded to the D.C. Circuit Court of Appeals' remand decision in USTA I.[221] The TRO eliminated enterprise switching as a UNE on a national basis. For other UNEs (for example, mass market switching, high capacity loops, and dedicated transport), the TRO provided for state review on a more granular basis to determine whether and where impairment existed, which was to be completed within nine months of the effective date of the Order.

On March 2, 2004, the D.C. Circuit Court of Appeals (D.C. Circuit or Court) released its decision in *United States Telecom Ass'n v. FCC* (USTA II)[222] which vacated and remanded certain provisions of the TRO. In particular, the D.C. Circuit held that the FCC's delegation of authority to state commissions to make impairment findings was unlawful and further found that the national findings of impairment for mass market switching and high-capacity transport made in the TRO were improper and could not stand on their own. The Court vacated the TRO's subdelegation to the states for determining the existence of impairment with regards to mass market switching and high-capacity transport. The D.C. Circuit also vacated and remanded back to the FCC the TRO's national impairment findings with respect to these elements.

As a result of the D.C. Circuit's remand, the FCC released an Order and Notice of Proposed Rulemaking (Interim Order and NPRM)[223] on August 20, 2004. This Order required ILECs to continue providing unbundled access to mass market local circuit switching, high-capacity loops, and dedicated transport until the effective date of final FCC unbundling rules or six months after Federal Register publication of the NPRM, whichever occurs first.[224] The rates, terms, and conditions of these UNEs were required to be those that applied under ILEC/CLEC interconnection agreements as of June 15, 2004. In the event that the interim six months expired without final FCC unbundling rules, the Interim Order contemplated a second six-month period during which CLECs would retain access to these network elements for existing customers, but at higher transitional rates.

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[219] A network element is "necessary" if, taking into consideration the availability of alternative elements outside the ILEC's network, including self-provisioning by a CLEC or acquiring an alternative from a third-party supplier, lack of access to the network element precludes a CLEC from providing the services that it seeks to offer.

[220] FCC 03-36, CC Docket Nos. 01-338, 96-98, 98-147; "Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability, Report and Order and Order on Remand and Further NPRM," August 21, 2003.

[221] 290 F. 3d 415 (D.C. Cir. 2002) (known as USTA I).

[222] 359 F. 3d 554 (D.C. Cir. 2004) (known as USTA II), cert. denial, Nos. 04-12, 04-15, 04_18, October 12, 2004.

[223] FCC 04-179, WC Docket No. 04-313, CC Docket No. 01-338, "Unbundled Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers," Order and NPRM, August 21, 2003.

[224] The Federal Register publication of the Interim Order and NPRM was September 13, 2004.

On February 4, 2005, the FCC released its *Triennial Review Remand Order* (TRRO),[225] which included new unbundling obligations in response to the USTA II decision. The effective date of the new rules was March 11, 2005. The TRRO addressed the general impairment framework established in the TRO, as well as unbundling requirements for local circuit switching, dedicated interoffice transport, and high-capacity loops. Additionally, the TRRO retained the TRO conversions requirement and allowed CLECs to convert tariffed services to UNEs and UNE combinations, where unbundling is required. Among the specific conclusions of the TRRO are the following:

1. Unbundling Framework

- The TRRO denied access to UNEs for the exclusive provision of mobile wireless services and long distance service, based on a finding that the market for these services is competitive.

- The TRRO adopted an approach that relies on reasonable inferences that can be drawn from one market regarding prospects for competitive entry in another.

2. Mass Market Local Circuit Switching

- The TRRO eliminated mass market local circuit switching as a UNE, subject to a 12-month transition plan.

3. Dedicated Interoffice Transport

The TRRO established criteria for determining the existence of impairment for DS1 and DS3 transport as well as dark fiber transport. Unbundled access is limited to those routes on which CLEC deployment at a particular capacity level is not economic.

- A CLEC can self-certify that it is entitled to unbundled access to a transport UNE based on a reasonably diligent inquiry. Upon receiving the self-certified CLEC request, the ILEC is required to provision the UNE. The ILEC can challenge the eligibility for such UNEs through the dispute resolution procedures contained in its interconnection agreements.

- The TRRO eliminated entrance facilities as a UNE.

[225] FCC 04-290, WC Docket No. 04-313, CC Docket No. 01-338, "Unbundling Access to Network Elements, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carrier*s*, Order on Remand, February 4, 2005.

4. High-Capacity Loops

- The TRRO established criteria for determining the existence of impairment for DS1 and DS3 loops.

- The TRRO eliminated dark fiber loops as a UNE, subject to a 18-month transition plan.

To provide sufficient time for a CLEC to migrate its embedded base of customers away from UNEs where a particular element is no longer available on an unbundled basis, the TRRO established transition plans to begin March 11, 2005. Specifically, a 12-month transition period was established for local circuit switching and DS1 and DS3 capacity loops and transport; 18 months was established for dark fiber loops and transport. The transition periods apply only to the CLECs' embedded customer base existing as of March 11, 2005, and do not permit CLECs to add new UNEs where no unbundling requirement exists. During the transition periods, CLECs retain access to affected UNEs at transitional rates. CLECs are required to transition the affected UNEs to alternative arrangements by the end of the transition periods; rates will likely increase. Consequently, ILECs and CLECs have the transition period to modify existing interconnection agreements, including completing any change-of-law processes, and to implement the TRRO unbundling requirements.

B. FCC V. BRAND X

In a Declaratory Ruling released on March 15, 2002, the FCC found cable modem service to be an information service.[226] In October 2003, the Federal Court of Appeals for the Ninth Circuit (Ninth Circuit) vacated the FCC Declaratory Ruling and determined that cable modem service is a combination of "telecommunications service" and "information service." This ruling would have made cable modem service subject to Title II, as well as Title I, of the Telecommunications Act of 1996 (the Act). The Ninth Circuit denied a request by the FCC to rehear the case but granted a stay of its decision until June 30, 2004. Both the FCC and the U.S. Solicitor General appealed the case to the U.S. Supreme Court, which stayed the Ninth Circuit decision until the resolution of the case. The Supreme Court heard oral arguments in the case in March 2005.

On June 27, 2005, the Supreme Court issued its decision in the case, finding that the Ninth Circuit had incorrectly ruled in its decision to vacate the FCC's declaratory ruling, thus affirming the finding by the FCC that cable modem service is an information service and hence not subject to the Title II provisions of the Act.

The primary impact of this case is that cable modem service will not be subject to the type of open access requirements required under Title II of the Act that currently apply to providers of telecommunications services. Brand X, a California-based Internet Service Provider (ISP), wished to be able to market cable modem service to its subscribers similar to the way that other ISPs market DSL directly to subscribers through DSL loops leased from local telecommunications companies. The Supreme Court's decision to affirm the FCC's Declaratory

[226] FCC 02-77, GN Docket No. 00-185, CS Docket No. 02-52, "Declaratory Ruling and NPRM," March 15, 2002, ¶7.

Ruling forecloses Brand X and all other ISPs from having the right to do so via Title II requirements.

Another key aspect of the Supreme Court decision is that it states that ". . . the Commission [FCC] remains free to impose special regulatory duties on facilities-based ISPs under its Title I ancillary jurisdiction."[227] This may pave the way for the FCC to impose certain public interest requirements on broadband service providers, such as E911, the Communications for Law Enforcement Act (CALEA), and disability access.

This decision could have a significant impact on the broadband market. On one hand, it appears to send a clear message that investment in broadband infrastructure will not be subject to open access requirements, thus simplifying decisions to invest. On the other hand, it may have a significant dampening effect on independent ISPs, such as Brand X, EarthLink, and others, that do not possess their own network infrastructure but rely on sharing arrangements with network providers to reach consumers.

On August 5, 2005, the FCC adopted the Report and Order and Notice of Proposed Rulemaking, which was released on September 23, 2005.[228] The Order classifies wireline broadband Internet access services as information services. The effect of the Order is to remove wireline broadband Internet access services, including DSL service, from Title II regulation. This determination was sought by the ILECs, such as Verizon and BellSouth, that provide DSL services.

C. IP-ENABLED SERVICES (VOICE OVER INTERNET PROTOCOL)

In July 2004, the Commission submitted reply comments to the FCC that endorsed an approach pursuant to which the FCC (from its national perspective) would apply a light regulatory touch to certain IP-enabled services. However, the Commission distinguished between economic and social regulation in its reply comments to the FCC.

The Commission proposed an approach that would not embrace economic regulation and that would focus on addressing any social policy issues that are determined too critical to be left to the market – such as 911, universal service, access for those with disabilities, and the like. Such an approach would ensure that consumers are protected while encouraging VoIP providers to invest.

Specifically, the Commission requested that the FCC:

- Conclude IP-enabled services to be interstate in nature;
- Assert its exclusive jurisdiction over interstate communications;

[227] National Cable Telecommunications Association, et al. v. Brand X Internet Services, et. al 545 U.S.___(2005), June 27, 2005.
[228] FCC 05-150 CC Docket No. 02-33, "Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, Report and Order and NPRM," September 23, 2005, ¶3.

- Establish a national policy, deregulatory in nature, to govern those IP-enabled services within the Commission's jurisdiction;

- Refrain from subjecting IP-enabled services to economic regulation; and

- Subject only IP-enabled services within its jurisdiction to public policy regulation deemed important after affording the industry a sufficient period of time in which to develop solutions and standards for meeting public policy objectives.

While the FCC has not yet issued an Order in the specific proceeding in which the Commission filed its reply comments, it has issued a number of decisions relating to IP-enabled services that are more limited in scope.

***pulver.com Petition for Declaratory Ruling*—**The FCC found that pulver.com's Free World Dialup (FWD) offering is an unregulated information service subject to the FCC's jurisdiction. FWD allows users of broadband Internet access to make VoIP calls (computer to computer) or other types of peer-to-peer communications directly to other FWD members without charge. (Released February 19, 2004)

***AT&T Petition for Declaratory Ruling*—**In its petition, AT&T sought a declaratory ruling that its "phone-to-phone" IP telephony services offered over the Internet are exempt from access charges applicable to circuit switched interexchange calls. In this decision, the FCC concluded that "AT&T's specific service, which an end-user customer originates by placing a call a traditional touch-tone phone with 1+ dialing, utilizes AT&T's Internet backbone for IP transport, and is transport, and is converted back from IP format before being terminated at a LEC switch, is a telecommunications service." As such, interstate or intrastate access charges apply as appropriate. (Released April 24, 2004)

***Vonage Holdings Corporation Petition for Preemption of Order of the Minnesota Public Utilities Commission (MPUC)*—**Vonage had sought FCC preemption of an Order of the MPUC that required Vonage to comply with state laws governing providers of telecommunications services. Specifically, Vonage requested the FCC to find that certain E911 requirements imposed by the MPUC are in conflict with federal policies. The FCC preempted the MPUC Order finding that Vonage's Digital Voice service cannot be separated into interstate and intrastate communications for compliance with Minnesota's requirement without negating valid federal policies and rules. (Released November 12, 2004)

***Level III Communications LLC's Petition for Forbearance*—**Level III requested the FCC to forbear from application of Section 251(g) (application of exchange access requirements, including access charges) of the Act, the exception clause of Section 51.701(b)(1) of the Commission's rules and Section 69.5(b) of the Commission's rules to the extent those provisions could be interpreted to permit local exchange carriers (LECs) to impose interstate or intrastate access charges on Internet protocol (IP) traffic that

originates or terminates on the public switched telephone network (PSTN), or on PSTN-PSTN traffic that is incidental thereto. Level III withdrew its request on March 22, 2005.

SBC Petition for Forbearance - SBC Communications, Inc. (SBC) requested that the FCC forbear from the application of Title II common carrier regulations as contained in the Telecommunications Act of 1934, as amended (the Act), to IP-enabled services. The FCC found that it would be inappropriate to grant SBC's petition because it asked to forbear from requirements that may not even apply to the facilities and services in question. (Released May 5, 2005)

E911 Requirements for IP-Enabled Service Providers - In its Order, the FCC adopted rules requiring providers of interconnected Voice over Internet Protocol (VoIP) service to supply enhanced 911 (E911) capability to their customers within 120 days of the Order's issuance.[229] The Order also requires interconnected VoIP service providers to provide E911 as a standard feature of the service, rather than as an optional enhancement, and further requires them to provide E911 from wherever the customer is using the service, whether at home or away from home. The FCC intends to adopt, in a future Order, an advanced E911 solution for interconnected VoIP that must include a method for determining a user's location without assistance from the user, as well as firm implementation deadlines for that solution. The Order precludes interconnected VoIP providers from requiring subscribers to "opt-in" or allowing subscribers to "opt-out" of 911 services and expects that VoIP providers will notify their customers of the limitations of their 911 service offerings. The Order also includes a Further Notice of Proposed Rulemaking (FNPRM) to address additional E911 related issues. (Released June 3, 2005.)

Communications Assistance and Law Enforcement Act (CALEA) - On September 23, 2005, the FCC released its Order which determined that providers of certain broadband and interconnected VoIP services must be prepared to accommodate law enforcement wiretaps.[230] The FCC found that because these services can replace conventional telecommunications services, including circuit-switched voice and dial-up Internet access, the new services are covered by the Communications Assistance and Law Enforcement Act (CALEA).[231] CALEA requires the FCC to preserve the ability of law enforcement agencies to conduct court-ordered wiretaps regardless of technological change. The FCC established an 18-month deadline for providers to achieve compliance with the requirements of the Order.[232]

D. DEVELOPMENT OF A UNIFIED INTERCARRIER COMPENSATION REGIME

Intercarrier compensation generally refers to the payments made between carriers for the usage of each respective carrier's network in the completion of all types of calls. Currently the

[229] The term "interconnected" refers to the ability of the user to receive calls from and to terminate calls to the public switched telecommunications network (PSTN), including commercial mobile radio networks.
[230] FCC 05-153 ET Docket No. 04-295, RM-10865, "Communications Assistance for Law Enforcement Act and Broadband Access and Services, First Report and Order," September 23, 2005, ¶1.
[231] Ibid, ¶¶12-13.
[232] Ibid, ¶3.

rates for various forms of intercarrier compensation vary by regulatory jurisdiction and by type of traffic. Consequently, carriers have financial incentives to misreport or misrepresent the nature of their traffic in order to achieve the lowest cost access to another carrier's network. Switched access and intercarrier compensation reform have the potential to affect carrier-to-carrier intrastate rates, universal service, cost allocation issues, infrastructure development, network structures, and various state policies. Virtually all stakeholders agree that the industry's intercarrier compensation regime is in dire need of reform. Stakeholders, however, do not agree on how the intercarrier compensation regime should be changed.

In August 2001, the Commission filed comments with the FCC to oppose a federal bill-and-keep system to replace access charge and reciprocal compensation arrangements. The consequences of adopting a bill-and-keep system will directly impact and change the amounts of payments between carriers for completing each other's calls and, hence, alter each carrier's ability to compete. The Commission recommended these issues be referred to a Joint Board or comparable state/federal negotiation process. The Commission recommended that issues related to universal service and jurisdictional separations should also be referred to the Universal Service and Separations Joint Boards, as appropriate.

The FCC, however, has not issued an Order in the proceeding.[233] Since the FCC initiated its proceeding, numerous comprehensive proposals have been submitted for consideration. These proposals include elements that would redistribute funds, either through additional line items or increased universal service support, to rural high-cost areas. In March 2005, in response to the number and complexity of the proposals, the FCC expanded the ongoing proceeding. Due to the limited information available on the consequences of the various proposals, the Commission did not endorse any proposal in its entirety. Instead, the Commission urged the FCC to focus on the goal of competitive and technological neutrality. The Commission noted that reform that does not accommodate and facilitate market and technological changes will be short-lived. The Commission stated its opposition to the proposed use of universal service support as the sole or primary source of replacement revenues of any intercarrier compensation plan. Instead, the Commission supported the concept of establishing a rate benchmark to focus funding in areas that have higher-than-average local rates and the greatest need for replacement revenues.

Action on this item is not anticipated until the current FCC commissioner vacancies are filled. Approval is pending for two nominees, and one vacancy will remain at the close of the 2005 Congressional session when Commissioner Abernathy's term expires.

E. UNIVERSAL SERVICE

1. High-Cost Portability and ETC Designation

On February 27, 2004, the Joint Board released its Recommended Decision addressing universal service high-cost support portability and the process for designating eligible telecommunications carriers (ETC). A carrier must be designated as an ETC in order to receive high-cost or low-income support from the federal universal service program. The FCC asked the

[233] FCC 01-132, Docket No. 01-92, "In the Matter of Developing a Unified Intercarrier Compensation Regime," NRPM, April 27, 2001.

Joint Board to review the FCC's rules relating to high-cost universal service support in study areas in which a competitive ETC is providing services, as well as the FCC's rules regarding support for second lines.

In general, the Joint Board recommended that the FCC adopt permissive federal guidelines for states (and the FCC) to use when determining whether applicants are qualified to be designated as ETCs. A majority of the Joint Board members recommended that the FCC limit the scope of high-cost support to a single connection that provides access to the public telephone network (that is, restate support based on primary lines). The Joint Board also offered three proposals designed to avoid or mitigate reductions in the amount of high-cost support flowing to rural carriers as a result of implementing a primary-line restriction.

On December 8, 2004, Congress passed the 2005 Consolidated Appropriations Act, which includes a provision prohibiting the FCC from utilizing appropriated funds to "modify, amend, or change its rules or regulations for Universal Service support payments to implement the February 27, 2004 recommendations of the Federal-State Joint Board on Universal Service regarding single connection or primary line restrictions on universal service support payments."[234] As a result, the FCC did not consider the portion of the Joint Board's Recommended Decision related to limiting the scope of high-cost support to a single connection. Since this legislation was enacted relating specifically to the funding of the FCC for 2005, it is possible (though unlikely) that the FCC could address the issue after the 2005 funding year.

On March 17, 2005, the FCC adopted the recommendation of the Joint Board to establish permissive federal guidelines for states to use when designating a carrier as an ETC. The FCC will use the same guidelines when evaluating carriers that it designates in instances where a state does not have jurisdiction to do so (such as Florida for wireless carriers). The new criteria include:

- A provision for a five-year plan demonstrating how high-cost universal service support will be used to improve its coverage, service quality or capacity;
- A demonstration of its ability to remain functional in emergency situations;
- A demonstration that it will satisfy consumer protection and service quality standards;
- The offering of local usage plans comparable to those offered by the incumbent local exchange carrier (ILEC) in the areas for which it seeks designation; and
- An acknowledgement that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations.

In addition, each ETC designated by the FCC, including those designated prior to its decision, must submit on an annual basis:

[234] 2005 Consolidated Appropriations Act at §634.

- Progress updates on its five-year service quality improvement plan;

- Detailed information on outages in the ETC's network;

- The number of requests for service from potential customers that were unfulfilled for the past year and the number of complaints per 1,000 handsets or lines; and

- Certification that the ETC continues to comply with the eligibility criteria.

The FCC encouraged state commissions to adopt these annual reporting requirements on all ETCs. The FCC concluded that individual state commissions are uniquely qualified to determine what information is necessary to ensure that ETCs are complying with all applicable requirements, including state-specific ETC eligibility requirements. The Commission has adopted the FCC's additional criteria.[235]

2. Comprehensive Review of Universal Service Fund Management, Administration, and Oversight

On June 14, 2005, the FCC initiated a comprehensive review of the administration of the Universal Service Fund (USF). The Universal Service Administrative Company, which administers the fund, has disbursed approximately $30.3 billion from the USF since 1997. The FCC seeks comment on ways to improve the management, administration, and oversight of the USF. This proceeding is structured to provide an opportunity for the FCC to work with USF stakeholders to learn from the experience of the past eight years and find ways to both meet the needs of those who depend on the USF and to protect the integrity of the program. In addition, the FCC seeks comment on ways to further deter waste, fraud, and abuse through audits of USF beneficiaries or other measures and on various methods for recovering improperly disbursed funds. The FCC recognizes that concerns have been raised ranging from mismanagement to intentionally defrauding the program. In this proceeding, the FCC intends to address these concerns by finding constructive ways to continue meeting the needs of those who depend on the USF, while at the same time ensuring that the public is confident that the funds are used for their intended purpose. The FCC is seeking comment in the following areas:

- **Managing the Program:** The FCC is exploring ways to simplify and streamline the management of the program. In particular, the FCC tentatively concludes that a multi-year application process for telecommunications services for the E-rate and Rural Healthcare programs would simplify the process in a way that still guards against potential abuse.

- **Improving Oversight:** The FCC seeks comment on the effectiveness of existing efforts to protect the fund against potential misuse. The FCC tentatively concludes that more aggressive debarment procedures are necessary to safeguard the fund and seeks comment on ways to improve the debarment rules.[236] In addition, the FCC seeks comment on

[235] Order No. PSC-05-0824-FOF-TL, issued August 15, 2005, in Docket No. 010977.
[236] A debarred person is prohibited from involvement in the E-rate program for three years (47 C.F.R. §54.521(g)).

establishing independent audits for certain USF beneficiaries and contributors, and seeks comment on what rules would help ensure that any audits are effective and fair.

- **Administrative Structure:** The FCC is examining the effectiveness of the existing administrative structure and seeks comment on whether any rule changes are needed to ensure the USF is administered in an effective, competitively neutral way.

- **Performance Measures:** The FCC is seeking comment on establishing performance measures to assess the effectiveness of the program.

F. ACCOUNTING AND REPORTING REQUIREMENTS FOR LOCAL EXCHANGE COMPANIES

The FCC's accounting rules provide information used in fulfilling state and federal regulatory obligations; for example, evaluating possible cross-subsidization and promoting competition. Previously, the Commission filed comments supporting the addition of new accounts as long as the benefits outweighed the costs and noting the limited availability of financial data in a uniform standard format outside of the Automated Reporting Management System (ARMIS) reports.

On September 5, 2002, the FCC convened a Federal-State Joint Conference on Accounting Issues (Joint Conference) to provide a forum for an ongoing dialogue between the FCC and the states in order to ensure regulatory accounting data and related information filed by carriers are adequate, truthful, and thorough.[237] On February 16, 2005, the FCC subsequently extended the Joint Conference until March 1, 2007, to address still outstanding issues.[238] Commissioner J. Terry Deason is an FCC-appointed state member of the Joint Conference.

On April 11, 2005, the state members of the Joint Conference sent a survey to state regulatory commissions, the Rural Utilities Service (RUS), and the National Association of State Utility Consumer Advocates (NASUCA) to gather specific input regarding issues that were initially raised in the FCC's Phase III Further Notice of Proposed Rulemaking.[239] The purpose of the survey is to provide an opportunity for each state to explain its specific needs for federal accounting and reporting regulations and how modification or elimination of these regulations will impact them. Of primary consideration is whether the responsibilities delegated to the states by the 1996 Telecommunications Act[240] create a federal need to maintain all accounting and reporting requirements that are necessary for the states to carry out these responsibilities. The responses to the Joint Conference survey will form the basis for the Joint Conference State Members' recommendations on accounting and reporting issues.

In accord with the Commission's previous comments, Commission staff submitted a response to the Joint Conference state members' survey. The response was made in the context

[237] FCC 02-240, WC Docket No. 02-269, "Federal-State Joint Conference on Accounting Issues, Order," September 5, 2002, ¶1.
[238] FCC 05-39, WC Docket No. 02-269, "Federal-State Joint Conference on Accounting Issues, Order," February 16, 2005, ¶¶4-5.
[239] FCC 01-305; CC Docket Nos. 00-199, 99-301, and 20-286; "2000 Biennial Regulatory Review-Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2, Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, Local Competition and Broadband Reporting Further NPRM," November 5, 2001, ¶¶205-271.
[240] For example, Section 252 of the 1996 Act delegates procedures for negotiation, arbitration, and approval of agreements. Section 254(k) delegates the responsibility to ensure local services do not bear an unreasonable level of joint and common costs, and states are responsible for certifying that carriers will use federal support monies in a manner consistent with Section 254(c).

of price regulation and mirrored the Commission's previous comments regarding accounting-related requirements. It informed the Joint Conference state members that, in order to fulfill state and federal regulatory obligations, the FCC's accounting rules and requirements are needed in determining wholesale prices. As long as there are federal requirements for unbundling, collocation, and universal service, and as long as an ILEC uses loading factors to impute or estimate Operations and Maintenance (O&M) and other expenses and plant item costs, a detailed underlying cost data is needed.

G. NASUCA TRUTH IN BILLING PETITION TO THE FCC

The National Association of State Utility Consumer Advocates (NASUCA) sought a ruling from the FCC prohibiting telecommunications carriers from imposing monthly line-item charges, surcharges, or other fees on customers' bills unless such charges have been expressly mandated by a regulatory agency.

In comments to the FCC on August 5, 2004, the Commission noted that, over the past several years, the clear policy choice has been for more specificity, not less, on customer bills. Further, the Commission opined that the NASUCA approach could turn out to be burdensome to the companies (in terms of increased administrative burden, another shift in billing practices, and increased costs) and, at the same time, not beneficial to consumers (due to possible increased costs associated with changes in billing practices and less specificity on bills).

The Commission also supported the following concepts:

- Disclosure of regulatory compliance costs to consumers through line items or surcharges;

- Access for consumers to more detailed information in order to make more informed choices about the services for which they are paying;

- Development of an alternative approach to assessing the validity of line item entries that would examine and document claims presented in the NASUCA petition in a systematic, collaborative manner;

- Development of an approach that would permit the FCC to examine the nature and extent of billing problems to determine what, if any, remedy is appropriate, be it rulemaking or on a case-by-case basis at either the federal or state level;

- Development of an evidentiary record prior to consideration of additional billing requirements for carriers.

On March 18, 2005, the FCC released its Second Report and Order addressing truth in-billing issues.[241] In this Order, the FCC denied NASUCA's request concluding that there is no general prohibition against the use of line items on telephone bills under its rules or the Act as

[241] FCC 05-55, CC Docket No. 98-170 and CG Docket No. 04-208, "Truth-in-Billing and Billing Format and National Association of State Utility Consumer Advocates' Petition for Declaratory Ruling," March 18, 2005.

long as the description is not misleading. The FCC did reiterate that it is a misleading practice for carriers to state or imply that a charge is required by the government when it is left to the discretion of the carrier whether to separately identify a line item charge and to determine the amount of the charge. Consumers may be less likely to engage in comparative shopping among service providers if they erroneously believe that certain rates or charges are unavoidable federally-mandated amounts from which individual carriers may not deviate. The Order addressed the following additional billing issues beyond the NASUCA petition. Specifically, the FCC:

- Held that it is misleading to represent discretionary line item charges in any manner that suggests such line items are taxes or government-mandated charges;

- Clarified that the burden rests upon the carrier to demonstrate that any line item that purports to recover a specific governmental or regulatory program fee conforms to the amount authorized by the government;

- Clarified that state regulations requiring or prohibiting the use of line items for Commercial Mobile Radio Service (CMRS or wireless service) constitute rate regulation and are preempted;

- Required that CMRS carriers be subject to the rules requiring that billing descriptions be brief, clear, non-misleading, and in plain language; and

- Concluded tentatively to preempt state regulation of line items on wireless bills.

NASUCA and the Vermont Public Service Board have appealed the FCC Truth-in-Billing decision in the 11th U.S. Circuit Court of Appeals (Court). The National Association of Regulatory Utility Commissioners (NARUC) has intervened. This proceeding will address the authority of the FCC's preemption by characterizing formatting regulations as "rate regulation" under the Telecommunications Act of 1996. Appellate briefs are due in October 2005.

APPENDIX A: CLECS PROVIDING SERVICE

CLEC	Resale	UNE-P	Switch-Based
1-800-RECONEX, Inc. d/b/a USTEL	Residential	Residential / Business	
Acceris Communications Corp. of Florida		Residential / Business	
Access Communications, LLC.	Residential / Business	Residential / Business	
Access Integrated Networks, Inc.	Residential / Business	Residential / Business	
Access Point, Inc.	Residential / Business	Residential / Business	
ACN Communication Services, Inc.		Residential / Business	
Actel Wireless, Inc.	Residential		
Advantage Group of Florida Communications, L.L.C.	Residential	Residential / Business	Business
Affordable Phone Services, Inc. d/b/a High Tech Communications	Residential / Business		
ALLTEL Communications, Inc.	Business		
Alternative Access Telephone Communications Corp. d/b/a AA Tele-Com	Residential / Business	Residential	
Alternative Phone, Inc.	Residential / Business	Residential / Business	
American Fiber Network, Inc.	Residential / Business		
America's Wireless Choice, Inc.	Residential		
AmeriMex Communications Corp.	Residential / Business	Residential / Business	
Andre Trajean Fidel d/b/a Andrex Telecom		Residential / Business	
ANEW Broadband, Inc.	Residential / Business	Residential / Business	Business
AT&T Communications of the Southern States, LLC d/b/a AT&T	Residential / Business	Residential / Business	Business
Atlantic.Net Broadband, Inc. d/b/a Dolfo.Net	Residential / Business	Residential / Business	
Auglink Communications, Inc.	Residential / Business	Residential / Business	
Azul Tel, Inc.	Residential / Business	Residential / Business	
Baldwin County Internet/DSSI Service, L.L.C.			Residential / Business
BCN Telecom, Inc.	Residential / Business	Residential / Business	
Beauty Town, Inc. d/b/a Anns Communication	Residential / Business		
Bellerud Communications, LLC	Residential		
BellSouth Telecommunications, Inc.			Business
Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch	Business	Business	
Bright House Networks Information Services (Florida), LLC			Residential
Broadwing Communications, LLC	Business		Business
Budget Phone, Inc.	Residential	Residential	
BudgeTel Systems, Inc.	Residential		
BullsEye Telecom, Inc.	Residential	Residential / Business	
Burno, Inc. d/b/a Citywide-Tel	Residential / Business	Residential / Business	
Business Telecom, Inc. d/b/a BTI	Residential / Business	Residential / Business	Business
CariLink International, Inc.	Residential	Residential / Business	
CAT Communications International, Inc.	Residential / Business	Residential	
Cinergy Communications Company		Business	

APPENDIX A: CLECS PROVIDING SERVICE

CLEC	Resale	UNE-P	Switch-Based
City of Daytona Beach			Business
Coastal Telephone Connections, Inc. d/b/a Coastal Connections	Residential / Business		
Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone			Residential / Business
Comm South Companies, Inc. d/b/a Florida Comm South	Residential	Residential / Business	
Conextel, Inc.		Residential / Business	
Credit Loans, Inc. d/b/a Lone Star State Telephone Co.	Residential		
Cypress Communications Operating Company, Inc.		Business	
Deland Actel, Inc.	Residential / Business	Residential / Business	
Dialtone Telecom, LLC	Residential / Business		
DIECA Communications, Inc. d/b/a Covad Communications Company	Residential		Business
Double Link Communications, Inc.	Residential		
DPI-Teleconnect, L.L.C.	Residential	Residential	
DSL Internet Corporation d/b/a DSLi	Residential / Business	Residential / Business	
DSL Telecom, Inc.	Residential / Business	Residential / Business	
DSLnet Communications, LLC		Business	
Eagle Telecommunications, Inc.	Residential / Business	Residential / Business	Business
Easy Telephone Services Company	Residential / Business	Residential / Business	
ElectroNet Intermedia Consulting, Inc.		Residential / Business	
EO Telecom of Florida, LLC	Residential		
EPICUS, Inc. d/b/a EPICUS	Residential / Business	Residential / Business	
Ernest Communications, Inc.	Residential / Business	Residential / Business	
Esodus Communications, Inc. d/b/a Excelink Communications d/b/a Instatone	Residential		
EveryCall Communications, Inc.		Residential	
Excel Pager, Cellular, and Home Phone, Inc.	Residential	Residential	
Excel Telecommunications, Inc.		Residential	
Express Phone Service, Inc.	Residential	Residential / Business	
Florida Multi-Media Services, Inc. d/b/a Florida Multi Media			Residential
FLATEL, Inc. d/b/a Florida Telephone Company d/b/a Oscatel d/b/a Telephone USA	Residential / Business	Residential / Business	
Florida Digital Network, Inc. d/b/a FDN Communications	Residential / Business	Residential / Business	Residential / Business
Florida Phone Service, Inc.	Residential / Business	Residential / Business	
Florida Telephone Services, LLC	Residential / Business	Residential / Business	
FPL FiberNet, LLC		Business	
Ganoco, Inc. d/b/a American Dial Tone	Residential	Residential	
Georgia Telephone Services, Inc.	Residential		

APPENDIX A: CLECS PROVIDING SERVICE			
CLEC	**Resale**	**UNE-P**	**Switch-Based**
Global Connection, Inc of America	Residential	Residential / Business	
Global Crossing Local Services, Inc.			Business
Global Crossing Telemanagement, Inc.	Residential / Business	Business	
Global Dialtone, Inc. d/b/a Atlantic Phone	Residential / Business	Residential / Business	
Granite Telecommunications, LLC	Business	Residential / Business	
GTC Telecom, Corp. d/b/a Curbside Communications		Residential / Business	
Global Link Teleco Corporation d/b/a Global Link or d/b/a GTS	Residential		
Harbor Communications, LLC		Residential / Business	Business
ICG Telecom Group, Inc.	Business		
IDS Telcom Corp.	Residential / Business	Residential / Business	Business
IDT America, Corp. d/b/a IDT		Residential / Business	
Image Access Communications, Inc. d/b/a NewPhone	Residential	Residential	
Interactive Services Network, Inc. d/b/a ISN Telcom	Residential / Business	Residential / Business	
Intermedia Communications, Inc.	Residential / Business		
International Telnet, Inc.		Business	
ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom d/b/a Grapevine	Residential / Business	Residential / Business	Business
KingTel, Inc.	Residential / Business		
KMC Telecom III LLC	Residential / Business	Residential / Business	Business
Knology of Florida, Inc.			Residential / Business
LecStar Telecom, Inc.	Residential / Business	Residential / Business	
Level 3 Communications, LLC			Business
Lightyear Network Solutions, LLC	Residential	Residential / Business	
Litestream Holdings, LLC			Residential / Business
Local Line America, Inc.	Residential		
MCI WorldCom Network Services, Inc.	Residential / Business	Residential / Business	Business
MET Communications, Inc.	Residential		
Metro Teleconnect Companies, Inc.	Residential	Residential / Business	
Metropolitan Telecommunications of Florida, Inc. d/b/a MetTel	Business	Residential / Business	
Momentum Telecom, Inc.	Business	Residential / Business	
Movie, Television & Graphics Corp. d/b/a M.T.G.	Residential / Business		
Myatel Corporation	Residential / Business		
MY-TEL INC.	Residential / Business		
National Telecom & Broadband Services, LLC	Residential / Business	Residential / Business	
Navigator Telecommunications, LLC	Residential / Business	Residential / Business	
Network PTS, Inc.		Business	
Network Telephone Corporation	Residential / Business	Residential / Business	Business

APPENDIX A: CLECS PROVIDING SERVICE			
CLEC	**Resale**	**UNE-P**	**Switch-Based**
New Edge Network, Inc. d/b/a New Edge Networks		Residential / Business	
North American Telecommunications Corporation	Residential / Business	Residential / Business	
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	Residential / Business	Residential / Business	
NOW Communications, Inc.	Residential / Business	Residential / Business	
NuStar Communications Corp.	Business		
NuVox Communications, Inc.	Residential / Business	Residential / Business	Business
Orlando Telephone Company	Residential / Business	Residential / Business	Residential / Business
PaeTec Communications, Inc.	Residential / Business	Business	Business
Phone Club Corporation	Residential / Business		
Phone-Link, Inc.	Residential	Residential / Business	
PNG Telecommunications, Inc. d/b/a PowerNet Global Communications	Residential	Residential	
Preferred Carrier Services, Inc. d/b/a Telefonos Para Todos and d/b/a Phones For All	Residential	Residential	
Premier Telecom, Inc.	Residential / Business	Residential / Business	
Quality Telephone Inc.	Residential / Business	Residential / Business	
QuantumShift Communications, Inc.	Business		
Qwest Communications Corporation	Business		
Re-Connection Connection	Residential / Business		
ReTel Communications, Inc.	Residential / Business	Residential / Business	
Rightlink USA, Inc.	Residential	Residential / Business	
Ring Connection, Inc.	Residential / Business	Residential	
Ringsouth Telecom, Corp		Residential / Business	
Sail Telecom, Inc.		Residential	
Saluda Networks Incorporated		Residential / Business	
Sandhills Telecommunications Group, Inc. d/b/a SanTel Communications	Residential / Business	Residential / Business	
Saturn Telecommunication Services Inc. d/b/a STS Telecom			Business
SBC Long Distance, Inc.	Residential / Business	Residential / Business	Residential / Business
Servi Express Caracol d/b/a Telefonica Express	Residential		
Smart City Solutions, LLC d/b/a Smart City Communications			Business
SNC Communications, LLC	Residential	Residential / Business	
Source One Communications, Inc. d/b/a Quick Connects	Residential		
Southeastern Services, Inc.	Residential / Business		
Southern ReConnect, Inc.	Residential		
Southern Telcom Network, Inc.	Residential / Business	Residential / Business	

APPENDIX A: CLECS PROVIDING SERVICE			
CLEC	**Resale**	**UNE-P**	**Switch-Based**
Spectrotel, Inc.		Residential	
Speedy Reconnect, Inc.	Residential		
Sprint Communications Company Limited Partnership	Residential	Residential / Business	Business
STS Telecom, LLC	Residential / Business	Residential / Business	
Suntel Metro, Inc.		Residential / Business	
Sun-Tel USA, Inc.	Residential / Business	Residential / Business	
Supra Telecommunications and Information Systems, Inc.	Residential / Business	Residential / Business	Residential
Symtelco, LLC	Business	Residential / Business	
T3 Communications, LLC d/b/a Tier 3 Communications d/b/a Naples Telephone and d/b/a Fort Myers Telephone	Residential	Residential / Business	
Talk America Inc.	Residential / Business	Residential / Business	
Talk For Less, Inc.	Residential		
Tallahassee Telephone Exchange, Inc.	Residential / Business	Residential / Business	
Tel West Communications, LLC	Residential		
TelCove Investment, LLC	Business		Business
TelCove of Florida, Inc.	Business	Business	
TelCove of Jacksonville, Inc.			Business
Telepak Networks, Inc.	Business		
Telephone One Inc.	Residential	Residential / Business	
THC Merger Corp. d/b/a THC Internet Solutions	Residential / Business		
The Sunshine State Telephone Company, L.L.P.	Residential	Residential / Business	
The Ultimate Connection, L.C. d/b/a DayStar Communications	Business	Business	Business
Time Warner Telecom of Florida, L.P.	Business		Business
Trans National Communications International, Inc.	Business	Residential / Business	
Trinsic Communications, Inc.	Business	Residential / Business	Residential / Business
Tristar Communications Corp	Residential / Business	Residential / Business	
Twenty Eight Red, Inc. d/b/a Cash America	Residential / Business		
Unicom Communications, LLC	Residential / Business		
Universal Beepers Express, Inc. d/b/a Universal Wireless d/b/a Universal Telephone d/b/a Ameri Phone d/b/a Unitel	Residential / Business	Residential / Business	
Universal Telecom, Inc.	Residential / Business		
Unknown	Residential / Business	Residential / Business	
US LEC of Florida Inc.	Business		Business
USA Telecom, Inc.	Residential / Business	Residential	
USA Telephone Inc. d/b/a Choice One Telecom	Residential / Business	Residential / Business	
Utility USA, Inc. d/b/a Vizon Telecom	Residential / Business	Residential / Business	
Utilities Commission, New Smyrna Beach d/b/a Sparks Communications	Residential / Business	Residential / Business	

APPENDIX A: CLECS PROVIDING SERVICE			
CLEC	**Resale**	**UNE-P**	**Switch-Based**
VarTec Telecom, Inc. d/b/a VarTec Telecom, Inc. and Clear Choice Communications		Residential / Business	
Verizon Avenue Corp. d/b/a Verizon Avenue	Residential		
Vertex Communications, Inc. d/b/a Zenith Communications of Florida, Inc.		Residential	
Winstar Communications, LLC	Business		Business
WS Telecom, Inc. d/b/a eXpeTel Communications		Residential	
XO Communications Services, Inc.	Business	Residential / Business	Business
Xspedius Management Co. of Jacksonville, LLC	Residential / Business	Business	Business

APPENDIX B: EXCHANGES WITH A CLEC PROVIDER

Exchange	Total CLEC Residential Providers (2004)	Total CLEC Residential Providers (2005)	Total CLEC Business Providers (2004)	Total CLEC Business Providers (2005)
Alachua	6	5	0	0
Alford	15	15	2	3
Alligator Point	0	0	0	0
Altha	2	2	0	0
Apalachicola	1	1	0	0
Apopka	36	32	21	30
Arcadia	24	22	9	10
Archer	25	18	12	11
Astor	13	11	3	5
Avon Park	20	23	9	13
Baker	13	10	4	5
Baldwin	15	16	19	19
Bartow	19	15	13	16
Belle Glade	36	41	25	27
Belleview	24	23	19	21
Beverly Hills	26	22	7	8
Blountstown	2	2	0	0
Boca Grande	0	1	1	3
Boca Raton	57	64	53	60
Bonifay	17	17	6	5
Bonita Springs	24	25	13	16
Bowling Green	11	9	1	3
Boynton Beach	52	59	51	45
Bradenton	24	25	19	25
Branford	9	7	0	0
Bristol	1	1	0	0
Bronson	25	25	13	11
Brooker	3	4	0	0
Brooksville	37	36	26	26
Bunnell	26	32	21	23
Bushnell	22	23	8	13
Callahan	6	4	2	2
Cantonment	26	21	19	20
Cape Coral	28	34	16	22
Cape Haze	16	16	5	8
Carrabelle	1	1	0	0
Cedar Key	4	3	13	10
Celebration	0	0	3	4
Century	17	0	7	1
Chattahoochee	1	1	0	0

APPENDIX B: EXCHANGES WITH A CLEC PROVIDER

Exchange	Total CLEC Residential Providers (2004)	Total CLEC Residential Providers (2005)	Total CLEC Business Providers (2004)	Total CLEC Business Providers (2005)
Cherry Lake	23	27	14	22
Chiefland	26	22	24	20
Chipley	22	21	23	21
Citra	4	4	0	0
Clearwater	31	34	27	32
Clermont	25	27	15	24
Clewiston	21	20	9	10
Cocoa	50	52	46	48
Cocoa Beach	36	32	32	32
Coral Springs	77	83	61	63
Cottondale	10	11	5	9
Crawfordville	12	6	5	9
Crescent City	6	6	0	0
Crestview	23	20	10	17
Cross City	16	15	14	12
Crystal River	21	20	11	16
Dade City	20	20	11	13
Daytona Beach	56	60	52	50
DeBary	43	43	28	32
Deerfield Beach	53	62	47	47
DeFuniak Springs	23	20	9	12
Deland	39	51	32	37
DeLeon Springs	23	20	11	14
Delray Beach	56	58	52	50
Destin	18	24	12	17
Dowling Park	1	1	0	0
Dunnellon	30	34	21	23
East Orange	32	33	20	23
East Point	1	1	0	0
Eau Gallie	47	52	44	45
Englewood	12	13	13	18
Eustis	29	28	11	16
Everglades	4	1	2	3
Fernadina Beach	40	42	31	32
Flagler Beach	19	21	22	23
Florahome	4	3	1	0
Florida Sheriffs' Boys Ranch	3	3	0	0
Forest	15	11	5	9
Freeport	11	6	5	8
Frostproof	12	12	6	8
Ft. Lauderdale	82	87	70	74

APPENDIX B: EXCHANGES WITH A CLEC PROVIDER

Exchange	Total CLEC Residential Providers (2004)	Total CLEC Residential Providers (2005)	Total CLEC Business Providers (2004)	Total CLEC Business Providers (2005)
Ft. Meade	10	10	2	6
Ft. Myers	34	40	25	27
Ft. Myers Beach	9	8	5	8
Ft. Pierce	50	51	43	45
Ft. Walton Beach	26	41	16	23
Ft. White	6	5	0	0
Gainesville	54	58	37	38
Geneva	0	0	0	1
Glendale	6	3	0	0
Graceville	22	24	15	15
Grand Ridge	15	13	2	7
Green Cove Springs	36	35	23	20
Greensboro	1	2	0	0
Greenville	14	11	2	5
Greenwood	8	8	1	3
Gretna	3	2	0	0
Groveland	18	21	8	10
Gulf Breeze	31	29	30	26
Haines City	23	20	16	20
Hastings	5	6	0	0
Havana	31	32	13	14
Hawthorne	24	22	15	14
High Springs	5	5	0	0
Hilliard	4	6	0	0
Hobe Sound	29	28	25	26
Holley-Navarre	29	32	22	23
Hollywood	77	83	59	65
Homestead	58	67	47	46
Homosassa	22	22	7	12
Hosford	0	0	0	0
Howey-in-the-Hills	9	6	3	4
Hudson	20	18	17	20
Immokalee	20	19	8	15
Indian Lake	3	3	2	4
Indiantown	0	0	0	1
Interlachen	8	5	0	0
Inverness	26	26	14	17
Jacksonville	76	79	64	62
Jacksonville Beach	2	3	12	10
Jasper	6	4	0	0
Jay	18	18	9	12

APPENDIX B: EXCHANGES WITH A CLEC PROVIDER

Exchange	Total CLEC Residential Providers (2004)	Total CLEC Residential Providers (2005)	Total CLEC Business Providers (2004)	Total CLEC Business Providers (2005)
Jennings	6	4	0	0
Jensen Beach	30	25	22	23
Julington	1	1	3	4
Jupiter	37	48	37	37
Keaton Beach	1	1	0	0
Kenansville	5	1	3	1
Keys	45	50	42	38
Keystone Heights	27	33	14	13
Kingsley Lake	3	2	0	2
Kissimmee	42	38	27	32
La Belle	19	16	8	11
Lady Lake	23	23	12	15
Lake Buena Vista	1	1	4	3
Lake Butler	6	3	0	0
Lake City	40	38	31	31
Lake Placid	16	24	8	11
Lake Wales	19	15	14	17
Lakeland	27	25	19	23
Laurel Hill	0	0	0	0
Lawtey	15	11	2	2
Lee	8	8	2	5
Leesburg	30	33	19	21
Lehigh Acres	25	26	12	16
Live Oak	8	6	1	1
Luraville	5	4	0	0
Lynn Haven	24	27	20	22
Macclenny	2	2	2	2
Madison	16	14	9	13
Malone	13	8	0	2
Marco Island	7	7	10	14
Marianna	22	19	12	14
Maxville	15	13	12	13
Mayo	4	3	0	0
McIntosh	7	6	0	0
Melbourne	50	61	51	48
Melrose	5	3	0	0
Miami	85	91	81	84
Micanopy	0	0	0	1
Middleburg	37	44	24	23
Milton	32	29	25	27
Molino	0	0	0	0

APPENDIX B: EXCHANGES WITH A CLEC PROVIDER

Exchange	Total CLEC Residential Providers (2004)	Total CLEC Residential Providers (2005)	Total CLEC Business Providers (2004)	Total CLEC Business Providers (2005)
Monticello	22	17	7	12
Montverde	14	9	2	1
Moore Haven	11	16	3	5
Mount Dora	26	24	12	15
Mulberry	15	14	7	12
Munson	0	0	0	1
Myakka	6	5	2	4
Naples	29	32	20	30
New Port Richey	20	21	19	23
New Smyrna Beach	35	38	38	38
Newberry	28	26	12	13
North Cape Coral	0	0	3	3
North Dade	71	78	57	57
North Ft Myers	27	21	17	21
North Naples	21	22	17	20
North Port	15	19	9	13
Oak Hill	19	16	14	14
Ocala	35	41	22	30
Ocklawaha	15	14	3	5
Okeechobee	22	21	10	13
Old Town	21	19	10	10
Orange City	24	32	17	28
Orange Park	46	53	38	38
Orange Springs	5	4	0	0
Orlando	76	80	62	64
Oviedo	36	47	38	35
Pace	30	28	19	21
Pahokee	31	35	20	19
Palatka	41	41	27	27
Palm Coast	34	35	30	29
Palmetto	16	16	14	20
Panacea	2	3	2	4
Panama City	45	48	37	35
Panama City Beach	32	36	27	28
Paxton	1	1	0	0
Pensacola	52	60	41	43
Perrine	66	70	52	51
Perry	1	1	0	0
Pierson	23	23	14	12
Pine Island	14	13	3	5
Plant City	16	16	16	21

APPENDIX B: EXCHANGES WITH A CLEC PROVIDER

Exchange	Total CLEC Residential Providers (2004)	Total CLEC Residential Providers (2005)	Total CLEC Business Providers (2004)	Total CLEC Business Providers (2005)
Polk City	11	12	7	9
Pomona Park	23	18	10	8
Pompano Beach	3	3	14	16
Ponce de Leon	10	9	6	6
Ponte Verde Beach	28	30	27	25
Port Charlotte	26	28	16	22
Port St Joe	1	1	0	0
Port St. Lucie	50	58	35	40
Punta Gorda	19	14	12	18
Quincy	5	3	0	2
Raiford	3	3	0	0
Reedy Creek	10	10	5	7
Reynolds Hill	0	0	0	0
Salt Springs	7	5	1	5
San Antonio	11	9	4	9
Sanderson	2	2	1	1
Sanford	56	59	41	40
Sanibel-Captiva Island	4	5	6	6
Santa Rosa Beach	10	14	9	10
Sarasota	23	28	23	28
Seagrove Beach	8	6	7	9
Sebastian	35	43	31	29
Sebring	20	22	12	18
Shalimar	18	22	8	13
Silver Springs Shores	21	24	7	17
Sneads	9	12	3	6
Sopchoppy	4	5	1	1
Spring Lake Hills	13	12	5	6
St. Augustine	46	47	39	38
St. Cloud	31	32	16	21
St. Johns	0	1	4	3
St. Marks	3	4	2	3
St. Petersburg	35	33	29	31
Starke	24	18	10	14
Stuart	42	48	46	40
Sunny Hills	16	14	6	8
Tallahassee	39	44	24	30
Tampa	40	40	29	36
Tarpon Springs	25	21	20	19
Tavares	22	20	12	15
The Beaches	0	0	0	0

APPENDIX B: EXCHANGES WITH A CLEC PROVIDER

Exchange	Total CLEC Residential Providers (2004)	Total CLEC Residential Providers (2005)	Total CLEC Business Providers (2004)	Total CLEC Business Providers (2005)
Titusville	41	39	37	37
Trenton	25	22	16	14
Trilacoochee	15	15	3	7
Tyndall AFB	0	0	0	0
Umatilla	22	21	5	9
Valparaiso	21	24	14	20
Venice	17	20	19	21
Vernon	15	18	11	8
Vero Beach	50	59	40	36
Waldo	7	3	0	0
Walnut Hill	0	0	0	0
Wauchula	16	15	6	10
Weekiwachee Springs	40	47	27	31
Weirsdale	0	0	0	1
Welaka	19	17	9	7
Wellborn	7	6	0	0
West Kissimmee	1	1	11	13
West Palm Beach	82	87	67	73
Westville	10	10	0	4
Wewahitchka	1	1	0	0
White Springs	5	7	0	0
Wildwood	25	21	12	16
Williston	23	24	6	11
Windermere	13	9	8	12
Winter Garden	31	29	22	24
Winter Haven	25	21	19	24
Winter Park	46	44	27	38
Yankeetown	17	17	12	11
Youngstown-Fountain	27	23	10	9
Yulee	25	27	18	19
Zephyrhills	20	17	15	21
Zolfo Springs	9	10	3	5

APPENDIX C: 2005 PERCENTAGE OF CLEC ACCESS LINES BY EXCHANGE

Exchange	ILEC Territory	% of CLEC Access Lines	
		Res	Bus
Alachua	ALLTEL	> 0 to 1%	0
Alford	Sprint	1% to 5%	5% to 10%
Alligator Point	GT Com	0	0
Altha	GT Com	> 0 to 1%	0
Apalachicola	GT Com	> 0 to 1%	0
Apopka	Sprint	1% to 5%	30% to 35%
Arcadia	Sprint	1% to 5%	1% to 5%
Archer	BellSouth	1% to 5%	25% to 30%
Astor	Sprint	1% to 5%	5% to 10%
Avon Park	Sprint	1% to 5%	1% to 5%
Baker	Sprint	1% to 5%	1% to 5%
Baldwin	BellSouth	1% to 5%	70% to 75%
Bartow	Verizon	1% to 5%	10% to 15%
Belle Glade	BellSouth	30% to 35%	35% to 40%
Belleview	Sprint	1% to 5%	15% to 20%
Beverly Hills	Sprint	> 0 to 1%	10% to 15%
Blountstown	GT Com	1% to 5%	0
Boca Grande	Sprint	> 0 to 1%	5% to 10%
Boca Raton	BellSouth	10% to 15%	35% to 40%
Bonifay	Sprint	1% to 5%	1% to 5%
Bonita Springs	Sprint	> 0 to 1%	15% to 20%
Bowling Green	Sprint	1% to 5%	1% to 5%
Boynton Beach	BellSouth	10% to 15%	35% to 40%
Bradenton	Verizon	1% to 5%	25% to 30%
Branford	ALLTEL	1% to 5%	0
Bristol	GT Com	> 0 to 1%	0
Bronson	BellSouth	1% to 5%	15% to 20%
Brooker	ALLTEL	> 0 to 1%	0
Brooksville	BellSouth	1% to 5%	20% to 25%
Bunnell	BellSouth	1% to 5%	20% to 25%
Bushnell	Sprint	1% to 5%	10% to 15%
Callahan	ALLTEL	> 0 to 1%	35% to 40%
Cantonment	BellSouth	5% to 10%	20% to 25%
Cape Coral	Sprint	1% to 5%	15% to 20%
Cape Haze	Sprint	> 0 to 1%	1% to 5%
Carrabelle	GT Com	> 0 to 1%	0
Cedar Key	BellSouth	> 0 to 1%	75% to 80%
Celebration	SmartCity	0	35% to 40%
Century	BellSouth	0	1% to 5%
Chattahoochee	GT Com	> 0 to 1%	0
Cherry Lake	Sprint	10% to 15%	75% to 80%

APPENDIX C: 2005 PERCENTAGE OF CLEC ACCESS LINES BY EXCHANGE

Exchange	ILEC Territory	% of CLEC Access Lines	
		Res	Bus
Chiefland	BellSouth	1% to 5%	30% to 35%
Chipley	BellSouth	1% to 5%	35% to 40%
Citra	ALLTEL	1% to 5%	0
Clearwater	Verizon	1% to 5%	35% to 40%
Clermont	Sprint	1% to 5%	10% to 15%
Clewiston	Sprint	5% to 10%	10% to 15%
Cocoa	BellSouth	5% to 10%	30% to 35%
Cocoa Beach	BellSouth	5% to 10%	50% to 55%
Coral Springs	BellSouth	35% to 40%	50% to 55%
Cottondale	Sprint	5% to 10%	10% to 15%
Crawfordville	Sprint	1% to 5%	5% to 10%
Crescent City	ALLTEL	1% to 5%	0
Crestview	Sprint	1% to 5%	10% to 15%
Cross City	BellSouth	1% to 5%	15% to 20%
Crystal River	Sprint	1% to 5%	20% to 25%
Dade City	Sprint	1% to 5%	10% to 15%
Daytona Beach	BellSouth	5% to 10%	35% to 40%
DeBary	BellSouth	10% to 15%	35% to 40%
Deerfield Beach	BellSouth	10% to 15%	35% to 40%
DeFuniak Springs	Sprint	5% to 10%	5% to 10%
Deland	BellSouth	10% to 15%	20% to 25%
DeLeon Springs	BellSouth	5% to 10%	30% to 35%
Delray Beach	BellSouth	10% to 15%	35% to 40%
Destin	Sprint	1% to 5%	35% to 40%
Dowling Park	ALLTEL	> 0 to 1%	0
Dunnellon	BellSouth	1% to 5%	20% to 25%
East Orange	BellSouth	1% to 5%	55% to 60%
East Point	GT Com	> 0 to 1%	0
Eau Gallie	BellSouth	5% to 10%	20% to 25%
Englewood	Verizon	> 0 to 1%	20% to 25%
Eustis	Sprint	1% to 5%	5% to 10%
Everglades	Sprint	> 0 to 1%	> 0 to 1%
Fernadina Beach	BellSouth	5% to 10%	30% to 35%
Flagler Beach	BellSouth	5% to 10%	30% to 35%
Florahome	ALLTEL	> 0 to 1%	0
Florida Sheriffs' Boys Ranch	ALLTEL	1% to 5%	0
Forest	Sprint	1% to 5%	10% to 15%
Freeport	Sprint	1% to 5%	5% to 10%
Frostproof	Verizon	1% to 5%	15% to 20%
Ft. Lauderdale	BellSouth	15% to 20%	35% to 40%
Ft Meade	Sprint	1% to 5%	1% to 5%
Ft Myers	Sprint	1% to 5%	25% to 30%

APPENDIX C: 2005 PERCENTAGE OF CLEC ACCESS LINES BY EXCHANGE

Exchange	ILEC Territory	% of CLEC Access Lines	
		Res	Bus
Ft. Myers Beach	Sprint	> 0 to 1%	20% to 25%
Ft Pierce	BellSouth	5% to 10%	20% to 25%
Ft. Walton Beach	Sprint	1% to 5%	30% to 35%
Ft. White	ALLTEL	> 0 to 1%	0
Gainesville	BellSouth	5% to 10%	15% to 20%
Geneva	BellSouth	0	40% to 45%
Glendale	Sprint	1% to 5%	0
Graceville	BellSouth	5% to 10%	15% to 20%
Grand Ridge	Sprint	1% to 5%	5% to 10%
Green Cove Springs	BellSouth	1% to 5%	25% to 30%
Greensboro	Quincy	1% to 5%	0
Greenville	Sprint	5% to 10%	5% to 10%
Greenwood	Sprint	5% to 10%	1% to 5%
Gretna	Quincy	1% to 5%	0
Groveland	Sprint	1% to 5%	1% to 5%
Gulf Breeze	BellSouth	5% to 10%	35% to 40%
Haines City	Verizon	1% to 5%	25% to 30%
Hastings	ALLTEL	1% to 5%	0
Havana	BellSouth	1% to 5%	10% to 15%
Hawthorne	BellSouth	1% to 5%	20% to 25%
High Springs	ALLTEL	> 0 to 1%	0
Hilliard	ALLTEL	> 0 to 1%	0
Hobe Sound	BellSouth	5% to 10%	40% to 45%
Holley-Navarre	BellSouth	1% to 5%	15% to 20%
Hollywood	BellSouth	20% to 25%	35% to 40%
Homestead	BellSouth	15% to 20%	15% to 20%
Homosassa	Sprint	> 0 to 1%	15% to 20%
Hosford	GT Com	0	0
Howey-in-the-Hills	Sprint	> 0 to 1%	1% to 5%
Hudson	Verizon	> 0 to 1%	25% to 30%
Immokalee	Sprint	15% to 20%	5% to 10%
Indian Lake	Verizon	> 0 to 1%	10% to 15%
Indiantown	ITS	0	> 0 to 1%
Interlachen	ALLTEL	1% to 5%	0
Inverness	Sprint	> 0 to 1%	5% to 10%
Jacksonville	BellSouth	15% to 20%	35% to 40%
Jacksonville Beach	BellSouth	5% to 10%	30% to 35%
Jasper	ALLTEL	1% to 5%	0
Jay	BellSouth	1% to 5%	10% to 15%
Jennings	ALLTEL	1% to 5%	0
Jensen Beach	BellSouth	5% to 10%	15% to 20%
Julington	BellSouth	1% to 5%	50% to 55%

APPENDIX C: 2005 PERCENTAGE OF CLEC ACCESS LINES BY EXCHANGE

Exchange	ILEC Territory	% of CLEC Access Lines	
		Res	Bus
Jupiter	BellSouth	5% to 10%	35% to 40%
Keaton Beach	GT Com	> 0 to 1%	0
Kenansville	Sprint	> 0 to 1%	> 0 to 1%
Keys	BellSouth	5% to 10%	20% to 25%
Keystone Heights	BellSouth	1% to 5%	20% to 25%
Kingsley Lake	Sprint	> 0 to 1%	5% to 10%
Kissimmee	Sprint	10% to 15%	35% to 40%
La Belle	Sprint	1% to 5%	5% to 10%
Lady Lake	Sprint	> 0 to 1%	10% to 15%
Lake Buena Vista	SmartCity	25% to 30%	10% to 15%
Lake Butler	ALLTEL	1% to 5%	0
Lake City	BellSouth	1% to 5%	25% to 30%
Lake Placid	Sprint	1% to 5%	1% to 5%
Lake Wales	Verizon	1% to 5%	30% to 35%
Lakeland	Verizon	1% to 5%	25% to 30%
Laurel Hill	GT Com	0	0
Lawtey	Sprint	1% to 5%	1% to 5%
Lee	Sprint	1% to 5%	5% to 10%
Leesburg	Sprint	1% to 5%	15% to 20%
Lehigh Acres	Sprint	1% to 5%	10% to 15%
Live Oak	ALLTEL	1% to 5%	> 0 to 1%
Luraville	ALLTEL	> 0 to 1%	0
Lynn Haven	BellSouth	25% to 30%	30% to 35%
Macclenny	Northeast	10% to 15%	10% to 15%
Madison	Sprint	5% to 10%	5% to 10%
Malone	Sprint	5% to 10%	1% to 5%
Marco Island	Sprint	> 0 to 1%	5% to 10%
Marianna	Sprint	5% to 10%	5% to 10%
Maxville	BellSouth	1% to 5%	70% to 75%
Mayo	ALLTEL	1% to 5%	0
McIntosh	ALLTEL	1% to 5%	0
Melbourne	BellSouth	5% to 10%	40% to 45%
Melrose	ALLTEL	> 0 to 1%	0
Miami	BellSouth	15% to 20%	30% to 35%
Micanopy	BellSouth	0	20% to 25%
Middleburg	BellSouth	1% to 5%	35% to 40%
Milton	BellSouth	1% to 5%	10% to 15%
Molino	Frontier	0	0
Monticello	Sprint	1% to 5%	5% to 10%
Montverde	Sprint	> 0 to 1%	5% to 10%
Moore Haven	Sprint	5% to 10%	1% to 5%
Mount Dora	Sprint	1% to 5%	10% to 15%

APPENDIX C: 2005 PERCENTAGE OF CLEC ACCESS LINES BY EXCHANGE

Exchange	ILEC Territory	% of CLEC Access Lines	
		Res	Bus
Mulberry	Verizon	1% to 5%	10% to 15%
Munson	BellSouth	0	1% to 5%
Myakka	Verizon	> 0 to 1%	45% to 50%
Naples	Sprint	1% to 5%	10% to 15%
New Port Richey	Verizon	> 0 to 1%	30% to 35%
New Smyrna Beach	BellSouth	15% to 20%	30% to 35%
Newberry	BellSouth	1% to 5%	20% to 25%
North Cape Coral	Sprint	0	5% to 10%
North Dade	BellSouth	20% to 25%	45% to 50%
North Ft Myers	Sprint	> 0 to 1%	15% to 20%
North Naples	Sprint	> 0 to 1%	15% to 20%
North Port	Verizon	> 0 to 1%	20% to 25%
Oak Hill	BellSouth	5% to 10%	15% to 20%
Ocala	Sprint	1% to 5%	25% to 30%
Ocklawaha	Sprint	1% to 5%	1% to 5%
Okeechobee	Sprint	1% to 5%	5% to 10%
Old Town	BellSouth	1% to 5%	10% to 15%
Orange City	Sprint	1% to 5%	30% to 35%
Orange Park	BellSouth	10% to 15%	35% to 40%
Orange Springs	ALLTEL	> 0 to 1%	0
Orlando	BellSouth	10% to 15%	40% to 45%
Oviedo	BellSouth	5% to 10%	35% to 40%
Pace	BellSouth	1% to 5%	20% to 25%
Pahokee	BellSouth	30% to 35%	40% to 45%
Palatka	BellSouth	5% to 10%	15% to 20%
Palm Coast	BellSouth	1% to 5%	25% to 30%
Palmetto	Verizon	> 0 to 1%	15% to 20%
Panacea	Sprint	1% to 5%	1% to 5%
Panama City	BellSouth	35% to 40%	25% to 30%
Panama City Beach	BellSouth	25% to 30%	30% to 35%
Paxton	GT Com	> 0 to 1%	0
Pensacola	BellSouth	5% to 10%	35% to 40%
Perrine	BellSouth	10% to 15%	25% to 30%
Perry	GT Com	> 0 to 1%	0
Pierson	BellSouth	1% to 5%	20% to 25%
Pine Island	Sprint	> 0 to 1%	1% to 5%
Plant City	Verizon	1% to 5%	25% to 30%
Polk City	Verizon	1% to 5%	10% to 15%
Pomona Park	BellSouth	1% to 5%	10% to 15%
Pompano Beach	BellSouth	1% to 5%	35% to 40%
Ponce de Leon	Sprint	1% to 5%	10% to 15%
Ponte Vedra Beach	BellSouth	5% to 10%	35% to 40%

APPENDIX C: 2005 PERCENTAGE OF CLEC ACCESS LINES BY EXCHANGE

Exchange	ILEC Territory	% of CLEC Access Lines	
		Res	Bus
Port Charlotte	Sprint	> 0 to 1%	25% to 30%
Port St Joe	GT Com	> 0 to 1%	0
Port St. Lucie	BellSouth	5% to 10%	20% to 25%
Punta Gorda	Sprint	> 0 to 1%	25% to 30%
Quincy	Quincy	1% to 5%	> 0 to 1%
Raiford	ALLTEL	1% to 5%	0
Reedy Creek	Sprint	> 0 to 1%	40% to 45%
Reynolds Hill	Sprint	0	0
Salt Springs	Sprint	1% to 5%	1% to 5%
San Antonio	Sprint	> 0 to 1%	5% to 10%
Sanderson	Northeast	10% to 15%	1% to 5%
Sanford	BellSouth	10% to 15%	40% to 45%
Sanibel-Captiva Island	Sprint	> 0 to 1%	5% to 10%
Santa Rosa Beach	Sprint	1% to 5%	20% to 25%
Sarasota	Verizon	> 0 to 1%	25% to 30%
Seagrove Beach	Sprint	5% to 10%	15% to 20%
Sebastian	BellSouth	1% to 5%	20% to 25%
Sebring	Sprint	1% to 5%	5% to 10%
Shalimar	Sprint	1% to 5%	5% to 10%
Silver Springs Shores	Sprint	5% to 10%	15% to 20%
Sneads	Sprint	1% to 5%	5% to 10%
Sopchoppy	Sprint	1% to 5%	> 0 to 1%
Spring Lake	Sprint	1% to 5%	1% to 5%
St. Augustine	BellSouth	5% to 10%	30% to 35%
St. Cloud	Sprint	1% to 5%	25% to 30%
St. Johns	BellSouth	5% to 10%	5% to 10%
St. Marks	Sprint	1% to 5%	1% to 5%
St. Petersburg	Verizon	> 0 to 1%	35% to 40%
Starke	Sprint	1% to 5%	15% to 20%
Stuart	BellSouth	5% to 10%	25% to 30%
Sunny Hills	BellSouth	1% to 5%	5% to 10%
Tallahassee	Sprint	1% to 5%	20% to 25%
Tampa	Verizon	5% to 10%	45% to 50%
Tarpon Springs	Verizon	1% to 5%	35% to 40%
Tavares	Sprint	1% to 5%	5% to 10%
The Beaches	GT Com	0	0
Titusville	BellSouth	5% to 10%	25% to 30%
Trenton	BellSouth	1% to 5%	15% to 20%
Trilacoochee	Sprint	1% to 5%	20% to 25%
Tyndall AFB	GT Com	0	0
Umatilla	Sprint	1% to 5%	1% to 5%
Valparaiso	Sprint	1% to 5%	15% to 20%

APPENDIX C: 2005 PERCENTAGE OF CLEC ACCESS LINES BY EXCHANGE

Exchange	ILEC Territory	% of CLEC Access Lines	
		Res	Bus
Venice	Verizon	> 0 to 1%	25% to 30%
Vernon	BellSouth	1% to 5%	50% to 55%
Vero Beach	BellSouth	5% to 10%	25% to 30%
Waldo	ALLTEL	> 0 to 1%	0
Walnut Hill	Frontier	0	0
Wauchula	Sprint	1% to 5%	1% to 5%
Weekiwachee Springs	BellSouth	5% to 10%	25% to 30%
Weirsdale	Sprint	0	40% to 45%
Welaka	BellSouth	1% to 5%	15% to 20%
Wellborn	ALLTEL	1% to 5%	0
West Kissimmee	Sprint	1% to 5%	50% to 55%
West Palm Beach	BellSouth	10% to 15%	30% to 35%
Westville	Sprint	5% to 10%	10% to 15%
Wewahitchka	GT Com	> 0 to 1%	0
White Springs	ALLTEL	1% to 5%	0
Wildwood	Sprint	1% to 5%	20% to 25%
Williston	Sprint	5% to 10%	5% to 10%
Windermere	Sprint	5% to 10%	20% to 25%
Winter Garden	Sprint	1% to 5%	25% to 30%
Winter Haven	Verizon	1% to 5%	25% to 30%
Winter Park	Sprint	1% to 5%	45% to 50%
Yankeetown	BellSouth	1% to 5%	20% to 25%
Youngstown-Fountain	BellSouth	1% to 5%	60% to 65%
Yulee	BellSouth	1% to 5%	50% to 55%
Zephyrhills	Verizon	> 0 to 1%	25% to 30%
Zolfo Springs	Sprint	1% to 5%	1% to 5%

APPENDIX D: SUMMARY OF COMPLAINTS FILED BY CLECS						
CLEC	**ILEC**	**Date Opened**	**Docket No. or CATS No.**	**Description of Complaint**	**Date Closed**	**Resolution**
AmeriMex Comm.	BellSouth	03/07/05	050170-TP	Emergency petition of AmeriMex Communications for Commission order directing BellSouth to continue to accept new unbundled network element orders pending completion of negotiations required by "change of law" provisions of interconnection agreement in order to address the FCC's recent Triennial Review Remand Order.	03/29/05	Letter filed by AmeriMex on March 22, 2005, withdrawing emergency petition.
AT&T/ TCG South Florida	Verizon	07/09/04	040713-TP	Emergency complaint and petition by AT&T and TCG for order directing continuation of wholesale service by Verizon.	12/14/04	AT&T and TCG filed a notice of voluntary dismissal.
Auglink Comm.	BellSouth	09/23/04	617771T	BellSouth issued a blanket commitment for repair due to aftermath of hurricanes.	09/23/04	BellSouth is reestablishing service to customers as rapidly as conditions allow. BellSouth has issued new and earlier commitment dates.
Bright House	Verizon	09/30/04	041170-TP	Verizon not allowing porting of number without cancellation of DSL service.	08/05/05	Joint petition filed by parties and Florida AG's office requesting that complaint be withdrawn.
Florida Telephone	BellSouth	07/05/04	606601T	Fla. Tel. is losing customers to BellSouth due to static and DSL problems when porting to Fla. Tel.	08/02/04	Customer ported back to BellSouth as Florida Tel could not offer DSL service.

APPENDIX D: SUMMARY OF COMPLAINTS FILED BY CLECS

CLEC	ILEC	Date Opened	Docket No. or CATS No.	Description of Complaint	Date Closed	Resolution
Ganoco d/b/a American Dial Tone	BellSouth & Verizon	03/08/05 & 03/09/05	050171-TP & 050172-TP	Emergency petitions of American Dial Tone for Commission order directing BellSouth and Verizon to continue to accept new unbundled network element orders pending completion of negotiations required by "change of law" provisions of interconnection agreement in order to address the FCC's recent Triennial Review Remand Order (TRRO).	05/05/05	Commission issued one order denying both petitions. On appeal.
IDS Telcom	BellSouth	05/12/05	652041T	Customer is moving, DSL has been disconnected by BellSouth	06/08/05	DSL service could not be moved due to the telephone number appearing at two different locations. Service is now working at new location.
Saturn d/b/a/ STS	BellSouth	06/10/04	040533-TP	Petition to require BellSouth to negotiate in good faith and/or require mediation concerning issues in an interconnection agreement by STS.	03/01/05	STS filed a notice of voluntary withdrawal of petition without prejudice on February 22, 2005.
Saturn d/b/a/ STS	BellSouth	07/12/04	040732-TP	Complaint against BellSouth seeking resolution of monetary dispute regarding alleged overbilling under interconnection agreement, and requesting stay to prohibit any discontinuance of service pending resolution of matter.	08/02/05	On July 27, 2005, STS reached an agreement with BellSouth.
Saturn d/b/a/ STS	BellSouth	08/23/04	040927-TP	Complaint of STS against BellSouth Telecommunications for declaratory relief regarding BellSouth's request for amendment pursuant to "change of law" provision of interconnect agreement.	10/14/04	STS voluntarily withdrew its complaint on October 11, 2004.

APPENDIX D: SUMMARY OF COMPLAINTS FILED BY CLECS

CLEC	ILEC	Date Opened	Docket No. or CATS No.	Description of Complaint	Date Closed	Resolution
Saturn d/b/a/ STS	BellSouth	04/29/05	050297-TP	Emergency petition by STS to require BellSouth to allow additional lines and locations to STS's embedded base and for expedited relief.	08/02/05	On July 27, 2005, STS reached an agreement with BellSouth.
XO Florida	BellSouth	09/22/04	041114-TP	Complaint of XO Florida against BellSouth for alleged refusal to convert circuits to UNEs; and request for expedited processing.	Pending	On October 18, 2005, XO notified the Commission that it had reached a settlement with BellSouth resolving the issues in dispute.

APPENDIX E: LIST OF CERTIFICATED CLECS AS OF 5/31/05
1 Com, Inc. d/b/a 1 Com South, Inc.
1-800-RECONEX, Inc. d/b/a USTEL
360networks (USA) inc.
A.R.C. Networks, Inc. d/b/a InfoHighway
AAA Reconnect, Inc.
AboveNet Communications, Inc.
Acceris Communications Corp. of Florida
Access Communications, LLC.
Access Integrated Networks, Inc.
Access One Communications, Inc.
Access Point, Inc.
AccuTel of Texas, Inc.
ACN Communication Services, Inc.
Actel Wireless, Inc.
Advantage Group of Florida Communications, L.L.C.
Affordable Phone Services, Inc. d/b/a High Tech Communications
Airespring, Inc.
Airface Communications Inc.
AirTIME Technologies, Inc.
ALEC, Inc.
ALLTEL Communications, Inc.
Alpha Fiber Inc.
Alpha Telecom, LLC
Alternative Access Telephone Communications Corp. d/b/a AA Tele-Com
Alternative Phone, Inc.
Alticomm, Inc.
American Fiber Network, Inc.
American Fiber Systems, Inc.
American Phone Services Corp.
America's Wireless Choice, Inc.
Americatel Corporation
AmeriMex Communications Corp.
Andre Trajean Fidel d/b/a Andrex Telecom
ANEW Broadband, Inc.
Arrow Communications, Inc. d/b/a ACI
Asia Talk Telecom, Inc. d/b/a HelloCom Inc.
Asset Channels-Telecom, Inc.
AT&T Communications of the Southern States, LLC d/b/a AT&T
Atlantic.Net Broadband, Inc. d/b/a Dolfo.Net
ATN, Inc. d/b/a AMTEL NETWORK, INC.
Auglink Communications, Inc.

Shading denotes that the company did not respond to the Commission's data request.

APPENDIX E: LIST OF CERTIFICATED CLECS AS OF 5/31/05
Available Telecom Services, Inc.
Awesome Communications Inc.
Azul Tel, Inc.
Backbone Communications Inc.
BAK Communications, LLC
Baldwin County Internet/DSSI Service, L.L.C.
Basic Phone, Inc.
BCN Telecom, Inc.
Beauty Town, Inc. d/b/a Anns Communication
Bellerud Communications, LLC
BellSouth Long Distance, Inc.
BellSouth Telecommunications, Inc.
Benchmark Communications, LLC d/b/a Com One
Best Value Telecom, Inc.
Birch Telecom of the South, Inc. d/b/a Birch Telecom and d/b/a Birch
Blonder Tongue Telephone LLC
Bright House Networks Information Services (Florida), LLC
Broadband Communities of Florida, Inc.
Broadstar Communications, LLC
Broadview Networks, Inc.
Broadwing Communications, LLC
BT Communications Sales LLC
Budget Phone, Inc.
BudgeTel Systems, Inc.
BullsEye Telecom, Inc.
Burno, Inc. d/b/a Citywide-Tel
Business Communications, Inc.
Business Telecom, Inc. d/b/a BTI
Buy-Tel Communications, Inc.
BW Consulting, L.L.C.
Camarato Distributing, Inc. d/b/a Nex-Phon
Campus Communications Group, Inc.
CariLink International, Inc.
CAT Communications International, Inc.
Cbeyond Communications, LLC
Centennial Florida Switch Corp.
CI2, Inc.
Ciera Network Systems, Inc.
Cinergy Communications Company
City of Daytona Beach
City of Gainesville, a municipal corporation d/b/a GRUCom
City of Lakeland

Shading denotes that the company did not respond to the Commission's data request.

APPENDIX E: LIST OF CERTIFICATED CLECS AS OF 5/31/05
City of Ocala
City of Quincy d/b/a netquincy d/b/a netquincy.com d/b/a www.netquincy.com
City of Tallahassee
Clear Breeze Telecommunications of Florida, Inc.
Cleartel Telecommunications, Inc. d/b/a Now Communications, also d/b/a VeraNet Solutions
CM Tel (USA) LLC
Coastal Telephone Connections, Inc. d/b/a Coastal Connections
Cogent Communications of Florida LHC, Inc.
Colmena Corp. of Delaware
Columbia Telecommunications, Inc. d/b/a axessa
Comcast Business Communications, Inc.
Comcast Phone of Florida, LLC d/b/a Comcast Digital Phone
Comm South Companies, Inc. d/b/a Florida Comm South
CommPartners, LLC
Communications Xchange, LLC
Computer Network Technology Corporation
Comtech21, LLC
Conextel, Inc.
Connect Paging, Incorporated d/b/a Get A Phone
Cordia Communications Corp.
CoreTel Florida, Inc. d/b/a CoreTel
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.
Cypress Communications Operating Company, Inc.
Deland Actel, Inc.
DialEZ Inc.
DialTek, LLC d/b/a DTK Telecommunications, LLC
Dialtone Telecom, LLC
DIECA Communications, Inc. d/b/a Covad Communications Company
Direct2Internet Corp.
Double Link Communications, Inc.
DPI-Teleconnect, L.L.C.
DSL Internet Corporation d/b/a DSLi
DSL Telecom, Inc.
DSLnet Communications, LLC
D-Tel, Inc.
DukeNet Communications, LLC
DV2, Inc.
E.Com Technologies, LLC d/b/a Firstmile Technologies, LLC

Shading denotes that the company did not respond to the Commission's data request.

APPENDIX E: LIST OF CERTIFICATED CLECS AS OF 5/31/05
Eagle Communications, Inc. d/b/a Eagle Telco, Inc.
Eagle Telecommunications, Inc.
Easy Telephone Services Company
Economic Telecom, Inc.
Elantic Telecom, Inc.
ElectroNet Intermedia Consulting, Inc.
Electronic Technical Services (E.T.S.)
Enhanced Communications Network, Inc. d/b/a Asian American Association
EO Telecom of Florida, LLC
EPICUS, Inc. d/b/a EPICUS
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.
Excel Telecommunications, Inc.
Expedient Carrier Services, LLC
Express Phone Service, Inc.
Fast Phones, Inc. of Alabama
Fiber Media, LLC
FLATEL, Inc. d/b/a Florida Telephone Company d/b/a Oscatel d/b/a Telephone USA
FlatPhone, Inc d/b/a FlatPhone
Florida City-Link Communications, Inc.
Florida Digital Network, Inc. d/b/a FDN Communications
Florida Multi-Media Services, Inc. d/b/a Florida Multi Media
Florida Municipal Power Agency
Florida Phone Service, Inc.
Florida Phone Systems, Inc.
Florida Public Telecommunications Association, Inc.
Florida Telephone Services, LLC
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.
Georgia Telephone Services, Inc.
Global Connection, Inc of America
Global Crossing Local Services, Inc.
Global Crossing Telemanagement, Inc.
Global Dialtone, Inc. d/b/a Atlantic Phone
Global Metro Networks Florida, LLC
Global NAPS, Inc.

Shading denotes that the company did not respond to the Commission's data request.

APPENDIX E: LIST OF CERTIFICATED CLECS AS OF 5/31/05
Global Response Corporation
Global Teldata II, LLC
Globalcom Inc. d/b/a GCI Globalcom Inc.
Globaltron Communications Corporation
Globcom, Inc.
Grande Communications Networks, Inc.
Granite Telecommunications, LLC
GTC Communications, Inc.
GTC Telecom, Corp. d/b/a Curbside Communications
H C Phone Service, LLC
Harbor Communications, LLC
Hayes E-Government Resources, Inc.
Home Town Telephone, LLC
Hotline, Inc. d/b/a Hotline Telephone Service, Inc.
ICG Telecom Group, Inc.
IDS Telcom Corp.
IDT America, Corp. d/b/a IDT
Image Access Communications, Inc. d/b/a NewPhone
Industry Retail Group, Inc.
Infotelecom, LLC
Intellicall Operator Services, Inc. d/b/a ILD
Intelligence Network Online, Inc.
Intelogistics Corp.
Interactive Services Network, Inc. d/b/a ISN Telcom
InterGlobe Communications, Inc.
Interlink Telephony, Inc.
Intermedia Communications, Inc.
International Exchange Communications, Inc. d/b/a IE Com
International Telcom, Ltd.
International Telnet, Inc.
Intrado Communications Inc.
IQC, LLC
ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom d/b/a Grapevine
ITS Telecommunications Systems, Inc.
Jax Telecom Inc.
K. Kessler Inc.
Kenarl Inc. d/b/a Lake Wellington Professional Centre
Kernan Associates, Ltd. d/b/a St. Johns Estates
KingTel, Inc.
Kissimmee Utility Authority
KMC Data LLC
KMC Telecom III LLC

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APPENDIX E: LIST OF CERTIFICATED CLECS AS OF 5/31/05
KMC Telecom V, Inc.
Knology of Florida, Inc.
Laser Telecom, LLC
LecStar Telecom, Inc.
Level 3 Communications, LLC
Lightyear Network Solutions, LLC
Litestream Holdings, LLC
Local Line America, Inc.
Local Telecom Systems, Inc.
Looking Glass Networks, Inc.
LPGA International Communications, LLC
Madison River Communications, LLC
McGraw Communications, Inc.
MCI WorldCom Network Services, Inc.
MCImetro Access Transmission Services LLC
McLeodUSA Telecommunications Services, Inc.
Melbourne Venture Group, LLC d/b/a SwiftTel
MET Communications, Inc.
Metric Systems Corporation
Metro Teleconnect Companies, Inc.
Metropolitan Telecommunications of Florida, Inc. d/b/a MetTel
Midwestern Telecommunications, Incorporated
Momentum Telecom, Inc.
Movie, Television & Graphics Corp. d/b/a M.T.G.
Mpower Communications Corp.
Myatel Corporation
MY-TEL INC.
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.
NETLINE COMMUNICATIONS CORP.
Network International Solutions, Inc.
Network Multi-Family Security Corporation d/b/a Priority Link
Network Operator Services, Inc.
Network PTS, Inc.
Network Telephone Corporation
NetworkIP, L.L.C.
Neutral Tandem-Florida, LLC
New Access Communications LLC and d/b/a INCOMNET
New Edge Network, Inc. d/b/a New Edge Networks

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APPENDIX E: LIST OF CERTIFICATED CLECS AS OF 5/31/05
New Rochelle Telephone Corp.
NextG Networks of NY, Inc. d/b/a NextG Networks East
Nexus Communications, Inc. d/b/a Nexus Communications TSI, Inc.
Nigerian-American Investment Corporation d/b/a NAIC Telecommunications
nii Communications, Ltd.
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.
NOW Communications, Inc.
NTERA, Inc.
NuStar Communications Corp.
NuVox Communications, Inc.
O1 Communications of Florida, Inc.
OCMC, Inc. d/b/a One Call Communications, Inc., OPTICOM, 1-800-MAX-SAVE, Advanttel,
RegionTel, LiveTel, and SuperTel Oltronics, Inc.
OneStar Long Distance, Inc.
OnFiber Carrier Services, Inc.
ONS-Telecom, LLC
Optical Telecommunications, Inc.
Orlando Telephone Company
Oronoco Networks, Inc.
Pacific Centrex Services, Inc.
PaeTec Communications, Inc.
Palm Beach Community College
Payless Telephone Company, Inc.
Pelzer Communications Corporation
Phone 1 Smart LLC
Phone Club Corporation
Phone-Link, Inc.
Pilgrim Telephone, Inc.
PNG Telecommunications, Inc. d/b/a PowerNet Global Communications
Preferred Carrier Services, Inc. d/b/a Telefonos Para Todos and d/b/a Phones For All
Premier Telecom, Inc.
Premiere Network Services, Inc.
Primus Telecommunications, Inc.
ProfitLab, Inc.
Progress Telecom, LLC
Protocall Communications, Inc.

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APPENDIX E: LIST OF CERTIFICATED CLECS AS OF 5/31/05
Public Telephone Network, Inc.
Quality Telephone Inc.
QuantumShift Communications, Inc.
Quiet River Communications, LLC
Qwest Communications Corporation
Qwest Interprise America, Inc.
Qwik.net ALEC, Inc.
Rebound Enterprises, Inc. d/b/a REI Communications
Re-Connection Connection
Reliant Communications, Inc.
ReTel Communications, Inc.
RGT Utilities of Florida, Inc.
Rightlink USA, Inc.
Ring Connection, Inc.
Ringsouth Telecom, Corp
RNK Telecom, Inc.
Sago Broadband, LLC
Sail Telecom, Inc.
Saluda Networks Incorporated
Sandhills Telecommunications Group, Inc. d/b/a SanTel Communications
Saturn Telecommunication Services Inc. d/b/a STS Telecom
SBA Broadband Services, Inc.
SBC Long Distance, Inc.
Servi Express Caracol d/b/a Telefonica Express
ServiSense.com, Inc.
Seven Bridges Communications, L.L.C.
Shands Teaching Hospital and Clinics, Inc.
Skyway Communications Holding Corp.
SkyWay Telecom, Inc.
Smart City Networks
Smart City Solutions, LLC d/b/a Smart City Communications
Smart Network Solutions Communications Corp
SNC Communications, LLC
Source One Communications, Inc. d/b/a Quick Connects
Southeastern Services, Inc.
Southern Light, LLC
Southern ReConnect, Inc.
Southern Telcom Network, Inc.
Southern Telecom, Inc. d/b/a Southern Telecom of America, Inc.
Spectrotel, Inc.
Speedy Reconnect, Inc.
Sprint Communications Company Limited Partnership

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APPENDIX E: LIST OF CERTIFICATED CLECS AS OF 5/31/05
Strategic Technologies, Inc.
STS Telecom, LLC
Suntel Metro, Inc.
Sun-Tel USA, Inc.
Super-Tel.Com, Inc.
Supra Telecommunications and Information Systems, Inc.
Symtelco, LLC
Synergy Networks, Inc.
T3 Communications, LLC d/b/a Tier 3 Communications d/b/a Naples Telephone and d/b/a Fort Myers Telephone
Talk America Inc.
Talk and Pay, Inc.
Talk For Less, Inc.
Tallahassee Community College
Tallahassee Memorial Telephone Company
Tallahassee Telephone Exchange, Inc.
TCG South Florida
Tel West Communications, LLC
TelCove Investment, LLC
TelCove of Florida, Inc.
TelCove of Jacksonville, Inc.
Tele Circuit Network Corporation
Telecom Connection Corp.
TELECUBA, INC.
Teledata Solutions, Inc. d/b/a TDSI, INC.
Telefyne Incorporated
Telepacket, Inc
Telepak Networks, Inc.
Telephone One Inc.
Telephone Systems of Georgia, Inc.
Teligent Services, Inc.
TelQuest Communications, Corp.
Telscape Communications, Inc.
Telstar Communications, Inc. d/b/a Telstar Prepaid Services
Telsys, Inc.
Tennessee Telephone Service, LLC d/b/a Freedom Communications USA, LLC
Terra Telecommunications Corp.
THC Merger Corp. d/b/a THC Internet Solutions
The Boeing Company
The Gulas Group, L.L.C.
The Hamilton Telephone Company d/b/a Hamilton Telecommunications
The Other Phone Company, Inc. d/b/a Access One Communications

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APPENDIX E: LIST OF CERTIFICATED CLECS AS OF 5/31/05
The Phone Connection, Inc.
The Sunshine State Telephone Company, L.L.P.
The Ultimate Connection, L.C. d/b/a DayStar Communications
Think 12 Corporation d/b/a Hello Depot
Tiburon Telecom, Inc.
Time Warner Telecom of Florida, L.P.
Touch 1 Communications, Inc.
Trans National Communications International, Inc.
Transparent Technology Services Corporation d/b/a North Palm Beach Telephone Company
Trinity Telecommunications, Inc. d/b/a Trinity Connect
Trinsic Communications, Inc.
TruComm Southeast
TWC Information Services (Florida) LLC d/b/a Time Warner Cable
Twenty Eight Red, Inc. d/b/a Cash America
U.S. TelePacific Corp. d/b/a TelePacific Communications
UCN, Inc.
Unicom Communications, LLC
United Communications HUB, Inc.
Unitycomm, LLC
Universal Access, Inc. d/b/a UAI of Florida, Inc.
Universal Beepers Express, Inc. d/b/a Universal Wireless d/b/a Universal Telephone d/b/a Ameri Phone d/b/a Unitel
Universal Telecom, Inc.
University Club Communications, LLC
US LEC of Florida Inc.
US South Communications, Inc.
US Telecom Group, Inc. d/b/a US Telecom
US Telesis, Inc.
USA Telecom, Inc.
Utilities Commission, New Smyrna Beach d/b/a Sparks Communications
Utility Board of the City of Key West d/b/a Keys Energy Services
Utility USA, Inc. d/b/a Vizon Telecom
VarTec Solutions, Inc.
VarTec Telecom, Inc. d/b/a VarTec Telecom, Inc. and Clear Choice Communications
VBNet, Incorporated
Verizon Avenue Corp. d/b/a Verizon Avenue
Verizon Florida Inc.
Verizon Select Services Inc.
Vertex Communications, Inc. d/b/a Zenith Communications of Florida, Inc.
VGM International, Inc.
VIVO-FLA, LLC

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APPENDIX E: LIST OF CERTIFICATED CLECS AS OF 5/31/05
VOIP Corp
Volo Communications of Florida, Inc. d/b/a Volo Communications Group of Florida, Inc.
Vortex Broadband Communications, Inc.
Vox2 Voice, L.C.
Vycera Communications, Inc.
Wholesale Carrier Services, Inc.
WilTel Local Network, LLC
Winstar Communications, LLC
Wireless One Network Management, L.P.
WS Telecom, Inc. d/b/a eXpeTel Communications
XFone USA, Inc.
XO Communications Services, Inc.
Xspedius Management Co. of Jacksonville, LLC
Xspedius Management Co. Switched Services, LLC d/b/a Xspedius Communications
Yipes Enterprise Services, Inc.
Zone Telecom, Inc.

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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

- National School Lunch's free lunch program[242]
- 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% of the Federal Poverty Guidelines.[243]

[242] This criterion is currently accepted only by BellSouth, Sprint, and Verizon.

[243] This criterion currently applies to Local Exchange Companies that have received Florida Commission approval to reduce their switched access rate pursuant to Chapter 364.164, F.S. At present, only BellSouth, Sprint, and Verizon are subject to the 135% of the Federal Poverty Guidelines criterion. On September 29, 2005, ALLTEL filed a petition pursuant to Chapter 364.164, F.S. The Commission must render a decision on ALLTEL's petition by December 28, 2005.

GLOSSARY	
Access Line	A telephone line extending from the telecommunications company's central office to a point of demarcation, usually on the customer's premises. (See also "Local Loop")
Broadband	A descriptive term for evolving digital technologies offering consumers a single switched facility offering integrated access to voice, high-speed data services, video-demand services, and interactive information delivery services. Broadband is also used to define an analog transmission technique for data or video that provides multiple channels.
CLEC	Competitive Local Exchange Company. Any company certificated by the Florida Public Service Commission to provide local exchange telecommunications service in the State of Florida on or after July 1, 1995. Pursuant to Law, the term ALEC was changed to CLEC on May 23, 2003.
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.
Circuit	A fully operative two-way communications path.
Collocation	In a collocation arrangement, a competitor leases space at an incumbent local exchange carrier's (ILEC's) premises for its equipment.
Commercial Agreement	An agreement between an ILEC and CLEC, to purchase UNEs or other services, that does not need to be approved by the state commission.
Exchange	A central office or group of central offices, together with the subscriber's stations and lines connected thereto, forming a local system which furnishes means of telephonic intercommunication without toll charges between subscribers within a specified area, usually a single city, town, or village. The term typically refers to an ILEC's exchange which may or not be the same geographic area for a CLEC.
InterLATA	Telecommunications services that originate and terminate in different local access and transport areas (LATAs).
Intermodal	The use of more than one form of carrier to transport telecommunication services from origination to termination. When referring to local competition, intermodal refers to non-wireline voice communications such as wireless or VoIP.
Internet Protocol	Refers to all the standards that keep the Internet running. Describes software that tracks the Internet address of nodes, routes outgoing messages, and recognizes incoming messages.

LATA	Local Access and Transport Areas. Geographic regions which present the post-divestiture service areas of the 22 Bell operating companies (BOCs). All telephone service within a LATA is defined as exchange service, while all telephone service between LATAs is defined as interexchange service. LATAs are loosely based on standard metropolitan statistical areas (SMSAs).
ILEC	Incumbent Local Exchange Company or Carrier, Local exchange telecommunications company. Any company certificated by the Commission to provide local exchange telecommunications service in this state on or before June 30, 1995.
Local Loop	A circuit connecting end-user telephone equipment to a switching facility or distribution point. (See "Access Line")
MSO	Multiple System Operator. A company that operates more than one cable television system.
OSS	Operations Support System. Methods and procedures (mechanized or not) which directly support the daily operation of the telecommunications infrastructure. The average local exchange company has hundreds of OSSs, including automated systems supporting order negotiation, order processing, line assignment, line testing and billing.
Packet Switching	A data transmission method whereby a channel is occupied only for the duration of transmission of "packets" of data. The packet switch sends the different packets from different data sources along the best route available, in no particular order. At the other end, the packets are reassembled to form the original message which is then sent to the receiving computer. Because packets need not be sent in a particular order, and because they can go by any route as long as they reach their destination, packet switching networks can choose the most efficient route and send the most efficient number of packets down that route, before switching to another route to send more packets.
PBX	Private Branch Exchange. A small version of a telephone company's larger central switching office that is owned by the customer.
POTS	Plain Old Telephone Service. The basic service supplying single land line telephones, telephone lines and access to the public switched network.
PSTN	Public Switched Telephone Network. The telephone network that provides switching and transmission facilities to the general public.
RBOC	Regional Bell Operating Company. Originally, one of seven regional holding companies which were created in 1984 as part of the breakup of AT&T. After mergers and acquisitions, there are now 4 regional holding companies: BellSouth, SBC Communications, Verizon and Qwest.
Resale	Buying local and/or long distance telephone lines in quantity at wholesale rates then selling them to someone else.

Section 271	Section of the Telecommunications Act of 1996 specifying the standards that must be met by a regional Bell Operating Company prior to in-region, interLATA entry. The standard seeks to measure whether the barriers to competition that Congress sought to eliminate with the 1996 Act have in fact been fully eliminated and whether there are objective criteria to ensure that competitive local exchange carriers will continue to have nondiscriminatory access to the facilities and services they will need from the Bell Operating Company in order to enter and compete in the local exchange market.
Switch	A mechanical, electrical or electronic device which opens or closes circuits, completes or breaks an electrical path, or selects paths or circuits.
Switched Access	Telephone 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 ordinary user-dialed calls.
Tariff	A statement by a communications company that sets forth the services offered by that company, and established customer rates, terms, and conditions under which regulated services are provided, and states general obligations of the company and customer. Tariffs are subject to review by regulatory agencies and must be followed by the common carrier to ensure nondiscrimination between customers.
Telecommunications Act of 1996 (the 1996 Act)	The 1996 Act established a national framework to enable CLECs to enter the local telecommunications marketplace.
UWB	A wireless technology that operates over a wide range of spectrum by transmitting very short, low-power pulses that can be used to distribute services such as telephone, cable, and computer networking throughout a building or home.
UNE	Unbundled Network Element. The Telecommunications Act of 1996 requires that the incumbent local exchange companies unbundle their network elements and make them available to the competitive local exchange companies on the basis of incremental cost. UNEs are defined as physical and functional elements of the network: for example, Network Interface Devices, local loops and subloops, circuit-switching and switch ports, interoffice transmission facilities, signaling and call-related databases, OSSs, operator services and directory assistance, and packet or data switching.
UNE-L	Unbundled Network Element - Loop.
UNE-P	Unbundled Network Element - Platform. When combined into a complete set in order to provide an end-to-end circuit, the UNEs constitute a UNE-P.

Universal Service	This term describes the financial support mechanisms that constitute a Universal Service Fund that helps to compensate telephone companies or other communication entities for providing access to telecommunications services at reasonable and affordable rates throughout the country, including rural, insular, high cost areas, and to public institutions.
VoIP	Voice over Internet Protocol. The technology used to transmit voice conversations over a data network using the Internet Protocol.
Wireline	A term used to describe the technology used by a company to provide telecommunications services; it is synonymous with "landline" or land based technology, which "refers to standard telephone and data communications systems that use in-ground and telephone pole cables in contrast to wireless cellular and satellite services."