

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 478

INTRODUCER: Senator Rodriguez

SUBJECT: Designation of Eligible Telecommunications Carriers

DATE: December 12, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schrader	Imhof	RI	Pre-meeting
2.			GO	
3.			RC	

I. Summary:

SB 478 amends s. 364.10, F.S., to restore to the Florida Public Service Commission (PSC) the authority to designate mobile phone service providers as eligible telecommunications carriers under the federal Lifeline program. The Lifeline program provides telecommunications cost assistance to qualifying low-income consumers throughout the United States.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida Public Service Commission

The PSC is an arm of the legislative branch of government.¹ The role of the PSC is to ensure Florida’s consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.² In order to do so, the PSC exercises authority over public utilities in one or more of the following areas: rate base or economic regulation; competitive market oversight; and monitoring of safety, reliability, and service issues.³

Telecommunications Carriers

Under ch. 364, F.S., telecommunications carriers in Florida are also subject to only limited PSC regulation. Telecommunications companies, under s. 364.02(13), F.S., include every corporation,

¹ Section 350.001, F.S.

² See Florida Public Service Commission, *Florida Public Service Commission Homepage*, <http://www.psc.state.fl.us> (last visited Dec. 7, 2023).

³ Florida Public Service Commission, *About the PSC*, <https://www.psc.state.fl.us/about> (last visited Dec. 7, 2023).

partnership, and person and their lessees, trustees, or receivers appointed by any court, and every political subdivision in the state, offering two-way telecommunications service to the public for hire within the state by the use of a telecommunications facility. The term does not include:

- Entities that provide a telecommunications facility exclusively to a certificated telecommunications company;
- Entities that provide a telecommunications facility exclusively to a company which is excluded from the definition of a telecommunications company under this subsection;
- Commercial mobile radio service providers (mobile phone service provided for profit and to the public);⁴
- Facsimile transmission services;
- Private computer data network companies not offering service to the public for hire;
- Cable television company providing cable service as defined in 47 U.S.C. s. 522;
- Intrastate interexchange telecommunications companies;
- Operator services providers; and
- Airports that provide communications services within the confines of their airport layout plan.

In addition, s. 364.011, F.S., exempts the following services from PSC jurisdiction (except as otherwise specifically provided in ch. 364, F.S.):

- Intrastate interexchange telecommunications services;
- Broadband services, regardless of the provider, platform, or protocol.
- Voice over Internet Protocol (VoIP);
- Wireless telecommunications, including commercial mobile radio service providers;
- Basic service; and
- Nonbasic services or comparable services offered by any telecommunications company.

During the 2011 legislative session, the Regulatory Reform Act was passed and signed into law by the Governor, effective July 1, 2011.⁵ Under the Regulatory Reform Act, the Legislature eliminated most of the PSC's jurisdiction over telecommunications. However, the PSC still:

- Maintains the authority to ensure that incumbent local exchange carriers meet their obligation to provide unbundled access, interconnection, and resale to competitive local exchange companies in a nondiscriminatory manner;
- Administers the system to provide Telecommunications Relay Services; and
- Oversees the Federal Lifeline Assistance program for Florida.⁶

⁴ See 47 U.S.C. ss. 153(27) and 332(d) (2009). The definition of "commercial mobile radio service provider" in s. 364.02(3), F.S., was created in 2009 and references the definition of "mobile service" at 47 U.S.C. ss. 153(27) as it existed in the U.S. Code at that time (*see* ch. 2009-226, Laws of Fla.). 47 U.S.C. s. 153 has been subsequently amended twice, and, although the definition of "mobile service" has not changed, the new, current location for this definition is 47 U.S.C. ss. 153(33). 47 U.S.C. s. 332 has also been amended since ch. 2009-226, Laws of Fla., however the only changes to the relevant portion of that section (47 U.S.C. s. 332(d)) were technical (eliminating the unnecessary phrase "of this section" from 47 U.S.C. s. 332(d)(2)).

⁵ Ch. 2011-36, Laws of Fla.

⁶ Florida Public Service Commission, *About the PSC*, *supra* note 3.

Federal Universal Service Program

Universal Service is the name of a fund (Universal Service Fund or USF) and a category of Federal Communications Commission (FCC) programs designed to implement the principle that “all Americans should have access to communications service.”⁷ The FCC has established four programs within the USF:

- Connect America Fund (formally known as High-Cost Support) for rural areas;
- Lifeline (for low-income consumers), including initiatives to expand phone service for residents of Tribal lands;
- Schools and Libraries (E-rate);
- Rural Health Care.⁸

The USF is paid for by contributions from providers of telecommunications and is assessed based upon such providers’ interstate and inter-nation end-user revenues. Entities that contribute to the fund include:

- Telecommunications carriers, including wireline and wireless companies; and
- Interconnected VoIP providers, including cable companies that provide voice service.⁹

The Universal Service Administrative Company administers the four USF programs and collects assessments telecommunications providers under the direction of the FCC.¹⁰

Connect America Fund

The Connect America Fund is designed to “ensure that consumers in rural, insular, and high-cost areas have access to modern communications networks capable of providing voice and broadband service, both fixed and mobile, at rates that are reasonably comparable to those in urban areas.” This is accomplished by allowing eligible telecommunications carriers (ETCs) serving eligible areas to recover some of the expense of high-cost service from the USF instead of from ratepayers.¹¹

Lifeline Program for Low-Income Consumers

Established in 1985, the Lifeline program was originally established to provide discounts on phone service for qualifying low-income consumers. The program is available to eligible low income consumers in every state, territory, commonwealth, and on tribal lands.¹²

⁷ Federal Communications Commission, *Universal Service*, <https://www.fcc.gov/general/universal-service> (last visited Dec. 6, 2023).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Federal Communications Commission, *Universal Service for High Cost Areas - Connect America Fund*, <https://www.fcc.gov/general/universal-service-high-cost-areas-connect-america-fund> (last visited Dec. 6, 2023).

¹² Federal Communications Commission, *Lifeline Program for Low-Income Consumers*, <https://www.fcc.gov/general/lifeline-program-low-income-consumers> (last visited Dec. 7, 2023).

In 2016, the FCC adopted, by order, a comprehensive reform and modernization of the Lifeline program.¹³ The order, in part, revised the Lifeline program to:

- Allow Lifeline subscribers to apply the \$9.25 monthly Lifeline discount to broadband and broadband-voice bundled service;
- Set minimum service standards for Lifeline-supported service; and
- Establish the National Verifier as a neutral third party to make program eligibility decisions.¹⁴

As currently administered, the Lifeline program is intended to enable low-income households to obtain and maintain basic telephone and broadband services through the offering of monthly bill discounts to qualifying households. Alternatively, qualifying low-income consumers can choose to receive monthly wireless minutes or measured data service from wireless ETCs.¹⁵

Eligible Telecommunications Carriers

To participate in the Lifeline program, telecommunications providers must first be designated as an ETC by either their state regulatory commission or, if the telecommunications company is not regulated by a state regulatory commission, the FCC.¹⁶

Chapter 364, F.S., grants the PSC authority over telecommunications carriers; and, thus, the PSC has the authority to designate such carriers as ETCs pursuant to 47 U.S.C. 214(e). Though s. 364.011, F.S., exempts wireless telecommunications from PSC jurisdiction, the PSC was able to designate wireless telecommunications providers as ETCs due to a provision previously in that section that allowed for PSC jurisdiction where “specifically authorized by federal law.”¹⁷ The 2011 Regulatory Reform Act, however, removed this provision;¹⁸ and, thus, the PSC no longer has jurisdiction to grant ETC status to wireless carriers and the authority to grant such status reverted back to the FCC.¹⁹

Since 2011, according to the PSC, “there have been 37 wireless ETC applications for which the FCC has taken no action,” and “it is unlikely that the FCC will take any action on most of these petitions given the length of time that has transpired since they were originally filed.” As of 2020, according to the PSC, four companies with authorization to do business in the state of Florida have filed or amended existing petitions with the FCC for ETC designation:

- Dish Wireless;

¹³ *Id.* and *In the Matter of Lifeline & Link Up Reform & Modernization*, 31 F.C.C. Rcd. 3962 (2016) (available at: <https://docs.fcc.gov/public/attachments/FCC-16-38A1.pdf>) (last visited Dec. 6, 2023).

¹⁴ Universal Service Administrative Co., *Orders*, <https://www.usac.org/lifeline/rules-and-requirements/orders/#:~:text=In%20April%202016%2C%20the%20FCC,third%20party%20to%20make%20program> (last visited: Dec. 6, 2023).

¹⁵ Florida Public Service Commission, *Bill Analysis for SB 478*, Dec. 6, 2023 (on file with the Senate Regulated Industries Committee).

¹⁶ *Id.*, Universal Service Administrative Co., *Join Lifeline as an ETC*, [https://www.usac.org/lifeline/get-started/join-lifeline-as-an-etc/#:~:text=Eligible%20telecommunications%20carriers%20\(ETCs%2C%20or,the%20federal%20universal%20service%20fund](https://www.usac.org/lifeline/get-started/join-lifeline-as-an-etc/#:~:text=Eligible%20telecommunications%20carriers%20(ETCs%2C%20or,the%20federal%20universal%20service%20fund) (last visited Dec. 6, 2023), and 47 U.S.C. 214(e).

¹⁷ Florida Public Service Commission, *Bill Analysis for SB 478*, supra note 15.

¹⁸ Ch. 2011-36, s. 3, Laws of Fla.

¹⁹ Florida Public Service Commission, *Bill Analysis for SB 478*, supra note 15.

- Easy Wireless;
- Global Connections; and
- Sage Telecom.²⁰

The FCC currently has two types of ETC designations. One is for its Connect America Fund. In order to participate in the Connect America Fund, the carrier must also participate in the Lifeline program.²¹ The other type of ETC designation is for the Lifeline program only.²²

III. Effect of Proposed Changes:

SB 478 amends s. 364.10, F.S., to authorize the PSC to specifically designate two types of entities as ETCs for the limited purpose of providing Lifeline service:

- Telecommunications companies; and
- Commercial mobile radio service providers (i.e. mobile phone service providers).²³

The effect of this change would be to:

- Maintain the PSC's current ability to grant Lifeline program ETC status to telecommunications companies currently under its jurisdiction, pursuant to 47 U.S.C. 214(e); and
- Provide the PSC with the state authority to grant ETC status, for the sole purpose of providing Lifeline service, to commercial mobile radio service providers, pursuant to 47 U.S.C. 214(e). These providers are currently exempted from PSC jurisdiction.

The bill would allow the PSC to expedite the ETC designation process for mobile phone service providers in Florida over the existing FCC process. According to the PSC, this will likely lead to more companies in Florida that can offer the Lifeline discount and more households receiving the Lifeline benefit.²⁴

Mobile phone service providers wishing to participate in the Connect America (i.e. High-Cost Support) program will still need to petition the FCC for ETC designation for that program. Additionally, providers using other technologies exempt from PSC jurisdiction, such as satellite or Voice over Internet Protocol, would continue to need to seek ETC designation at the FCC to participate in the Lifeline or Connect America programs.²⁵

The bill takes effect upon becoming a law.

²⁰ *Id.*

²¹ *Id.* However, in *In the Matter of Lifeline & Link Up Reform & Modernization*, 31 F.C.C., Rcd. 3962, paras. 335-60 (2016), the FCC provided conditional forbearance from Lifeline voice service requirements where (a) 51 percent of Lifeline subscribers in a county are obtaining Lifeline broadband Internet access service; (b) there are at least three other providers of Lifeline BIAS that each serve at least five percent of the Lifeline broadband subscribers in that county; and (c) the ETC does not actually receive federal high-cost universal service support.

²² Florida Public Service Commission, *Bill Analysis for SB 478*, supra note 15.

²³ Provided that such service is offered for profit and to the public.

²⁴ Florida Public Service Commission, *Bill Analysis for SB 478*, supra note 15.

²⁵ *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill would reduce the amount of time it would take for mobile phone service providers to obtain ETC status for the Lifeline program. This may lead to an expansion of such companies' consumer base through the addition of Lifeline service customers.

C. Government Sector Impact:

The PSC estimates that implementing the bill would have no fiscal impact in regards to its own revenues or expenditures.²⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

The term "commercial mobile radio service provider" is used in the bill and is defined in s. 364.02(3), F.S., as "a commercial mobile radio service provider as defined by and pursuant to 47 U.S.C. ss. 153(27) and 332(d)." While s. 364.02, F.S., is not included within the bill, the U.S.

²⁶ Florida Public Service Commission, *Bill Analysis for SB 478*, supra note 15.

Code reference included in the definition of “commercial mobile radio service provider” is outdated and no longer accurate. The Legislature may wish to consider updating this reference within this, or another bill impacting this subject matter.

VIII. Statutes Affected:

This bill substantially amends section 364.10 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
