1983

Session Law 83-073

Florida Senate & House of Representatives

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A bill to be entitled
An act relating to telephone companies; creating s. 364.037, Florida Statutes; authorizing consideration of directory advertising revenues in rate setting; amending s. 364.05(4), Florida Statutes; providing that effectiveness of certain rates is discretionary; creating s. 364.059, Florida Statutes; providing for limited proceedings; amending s. 364.07(2), Florida Statutes; providing powers of the Florida Public Service Commission with respect to intrastate interexchange service contracts; creating s. 364.285, Florida Statutes; providing for administrative penalties; amending s. 364.33, Florida Statutes; clarifying requirement of certificate; adding s. 364.333(6), Florida Statutes, 1982 Supplement; providing for duplicative mobile radio service; amending s. 364.337, Florida Statutes, 1982 Supplement; providing powers of the commission with respect to duplicate telephone service; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 364.037, Florida Statutes, is created to read:

364.037 Revenues derived from telephone directory advertising.--The commission may consider revenues derived

CODING: Words in struck through type are deletions from existing law; words underlined are additions.
from advertising in telephone directories when establishing rates for telecommunications services.

Section 2. Subsection (4) of section 364.05, Florida Statutes, is amended to read:

364.05 Changing rates, tolls, rentals, contracts, or charges.--

(4) Pending a final order by the commission in any rate proceeding under this section, the commission may withhold consent to the operation of all or any portion of the new rate schedules, delivering to the telephone company requesting such increase, within 60 days, a reason or written statement of good cause for withholding its consent. Such consent shall not be withheld for a period longer than 8 months from the date of filing the new schedules. The new rates or any portion not consented to may shall go into effect under bond or corporate undertaking at the end of such period, but the commission shall, by order, require such telephone company to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts were paid and, upon completion of hearing and final decision in such proceeding, shall by further order require such telephone company to refund with interest at a fair rate, to be determined by the commission in such manner as it may direct, such portion of the increased rate or charge as by its decision shall be found not justified. Any portion of such refund not thus refunded to patrons or customers of the telephone company shall be refunded or disposed of by the telephone company as the commission may direct; however, no such funds shall accrue to the benefit of the telephone company. The commission shall take final commission action in the docket and enter its final

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order within 12 months after the commencement date for final agency action. As used in this section, "commencement date for final agency action" means the date upon which it has been determined by the commission or its designee that the telephone company has filed with the clerk the minimum filing requirements as established by rule of the commission. Within 30 days after receipt of the application, rate request, or other written document for which the commencement date for final agency action is to be established, the commission or its designee shall either determine the commencement date for final agency action or issue a statement of deficiencies to the applicant, specifically listing why the applicant has failed to meet the minimum filing requirements. The statement of deficiencies shall be binding upon the commission to the extent that, once the deficiencies in the statement are satisfied, the commencement date for final agency action shall be promptly established as provided in this section. Thereafter, within 15 days after the applicant indicates to the commission that it believes that it has met the minimum filing requirements, the commission or its designee shall either determine the commencement date for final agency action or specifically enumerate in writing why the requirements have not been met, in which case this procedure shall be repeated until the commencement date for final agency action is established. When the commission initiates a proceeding, the commencement date for final agency action shall be the date upon which the order initiating the proceeding is issued.

Section 3. Section 364.059, Florida Statutes, is created to read:

364.059 Limited proceedings.—Upon petition or by its own motion, the commission may conduct limited proceedings to

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consider, and act upon, any matter within its jurisdiction, including any matter the resolution of which requires a utility to adjust its rates. The commission shall determine the issues to be considered during such a proceeding and may deny any request to expand the scope of the proceeding to include other matters.

Section 4. Subsection (2) of section 364.07, Florida Statutes, is amended to read:

364.07 Joint contracts; intrastate interexchange service contracts or revenue settlement agreements.--

(2) The commission is authorized to review contracts for joint provision of intrastate interexchange service and may intrastate tel revenue settlement agreements and disapprove any such contract agreement if such contract agreement is detrimental to the public interest. The commission may also require the filing of all necessary reports and information pertinent to joint provision contracts or intrastate telecommunications settlements. In such disputes, the commission may assess interest at a rate it determines.

Section 5. Section 364.285, Florida Statutes, is created to read:

364.285 Penalties.--The commission shall have the power to impose upon any entity subject to its jurisdiction under this chapter that is found to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than $5,000, which penalty shall be fixed, imposed, and collected by the commission; or the
commission may, for any such violation, amend, suspend or 
revoke any certificate issued by the commission. Each day 
that such refusal or violation continues shall constitute a 
separate offense. Each penalty shall be a lien upon the real 
and personal property of the entity, enforceable by the 
commission as a statutory lien under chapter 85. Collected 
penalties shall be deposited in the General Revenue Funds 
unallocated.

Section 6. Section 364.33, Florida Statutes, is 
amended to read:

364.33 Certificate of necessity prerequisite to 
construction, operation or control of telephone line, plant, 
system.--No person shall hereafter begin the construction or 
operation of any telephone line, plant or system, or any 
extension thereof, or acquire ownership or control thereof, 
whatever manner, including the acquisition, transfer, or 
assignment of majority organizational control or controlling 
stock ownership either directly or indirectly, without first 
obtaining from the commission a certificate that the present 
or future public convenience and necessity require or will 
require such construction, operation or acquisition; provided 
ss. 364.32-364.40 shall not require, nor shall it be so 
construed as to require, any such person to secure a 
certificate for an extension within any municipality within 
which such person has heretofore lawfully commenced 
operations, or for any extension within or to territory 
already served by such person, necessary in the ordinary 
course of business, or for substitute facilities within or to 
your municipality or territory already served by such person, 
or for any extension into territory contiguous to that already 
served by such person and not receiving similar service from
another such person when no certificate of convenience and
necessity has been issued to or applied for by any other
person, or for the acquisition and operation of any line,
plant or system heretofore constructed or hereafter
constructed under authority of a certificate of convenience
and necessity hereafter issued or for the construction of
which no such certificate was, under the provisions of this
law, required.

Section 7. Subsection (6) is added to section 364.335,
Florida Statutes, 1982 Supplement, to read:

364.335 Application for certificate.--

(6) Notwithstanding any provision of this section to
the contrary, the commission may grant a certificate to a
company which will be providing duplicative or competitive
cellular mobile radio telephone service.

Section 8. Section 364.337, Florida Statutes, 1982
Supplement, is amended to read:

364.337 Duplicative or competitive services.--

(1) For any when the commission grants a certificate
to a telephone company or for any type of service provided by
a telephone company that is duplicative of, or in competition
with or that duplicates the services provided by another
telephone company or service, the commission, if it finds that
such action is consistent with the public interest, may:

(a)Prescribe different requirements for the company
or service than are otherwise prescribed for telephone
companies; or

(b) Exempt the company from some or all of the
requirements of this chapter.
(2) In determining whether the actions authorized by subsection (1) are consistent with the public interest, the
commission may consider:

(a) The number of firms providing the service;

(b) The geographic availability of the service from other firms;

(c) The quality of service available from alternative suppliers;

(d) The effect on telephone service rates charged to customers of other companies; and

(e) Any other factors that the commission considers relevant to the public interest.

Section 9. This act shall take effect October 1, 1983.

*****************************************

SENATE SUMMARY

Authorizes the Florida Public Service Commission to consider directory advertising revenues in setting telephone rates. Provides that the effectiveness of rates not consented to by the commission is discretionary. Provides for limited proceedings. Provides for review of intrastate interexchange service contracts. Provides for administrative penalties. Authorizes approval of certain duplicate service.

CODING: Words in slack through type are deletions from existing law; words underlined are additions.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST      STAFF DIRECTOR      REFERENCE      ACTION
1. Branning  1. Martin
2. 
3. 

SUBJECT: Telephone Companies

BILL NO. AND SPONSOR: SB 0813 by Senator Gersten

I. SUMMARY:

A. Present Situation:

Chapter 364, Florida Statutes, provides for the regulation of telephone companies in Florida by the Public Service Commission (PSC). Section 364.03, Florida Statutes, requires that the rates, tolls, contracts and charges of telephone companies be fair, just, reasonable, and sufficient. When determining the rates to be charged by a telephone company, section 364.035, Florida Statutes, requires the PSC to consider the following criteria:

1. Efficiency, sufficiency, and adequacy of facilities;
2. Energy conservation and the efficient use of alternate resources;
3. Ability to improve service and facilities; and
4. Value of service.

Currently, the PSC includes the revenues, investment and associated costs of directory advertising in a telephone company's net operating income and rate base when establishing and setting rates. Southern Bell has recently appealed the inclusion of directory revenues in the rate base alleging that the PSC has exceeded its jurisdiction. That case is currently pending before the Florida Supreme Court.

Section 364.05, Florida Statutes, contains the procedure for filing rates and rate change requests, commonly referred to as the 'file and suspend law.' The PSC has 60 days in which to act on a petition for rate changes. If the PSC desires to withhold consent, it must indicate the reason. This consent cannot be withheld for a period longer than 8 months. If no order is issued at the end of 8 months, the telephone company must place the new rates into effect under bond or corporate undertaking subject to refund until a final order is issued by the PSC. A final order must be issued within 12 months after the commencement date for final agency action.

The PSC, on occasion, conducts a proceeding pertaining to a limited number of issues. Usually, these are generic issues that pertain to the industry as a whole and not just to any one particular company.

Section 364.07, Florida Statutes, authorizes the PSC to review and approve all intrastate toll settlement agreements, which must be filed with the commission, and to adjudicate disputes regarding settlements.
The commission, pursuant to section 350.127, Florida Statutes, has the authority to fine or penalize any regulated company under its jurisdiction for violation of any commission rule or order, or any statute administered by the Commission. However, the Commission does not have the authority to fine or penalize a telephone company which is subject to regulation, but refuses to apply for a certificate.

Section 364.33, Florida Statutes, requires that whenever the ownership or control of a telephone company changes, a new certificate must be obtained. Currently, there appears to be some disagreement concerning what kinds of organizational changes will trigger the need for a new certificate.

The PSC has the jurisdiction to regulate companies engaged in cellular mobile radio telephone service except for those areas of regulation preempted by the F.C.C. Basically, the PSC will regulate the rates and services of these companies for which a certificate of convenience or necessity will be required.

A certificate can be issued to a telephone company which provides any type of service which is in competition with another telephone company. In granting such a certificate, the commission may prescribe different requirements for that telephone company or it may exempt that telephone company from any or all of the requirements of chapter 364, Florida Statutes, using certain prescribed guidelines.

B. Effect of Proposed Changes:

The bill provides the PSC with the express statutory authority to consider the revenues derived from advertising in telephone directories when establishing rates.

Telephone companies would have the option of placing proposed new rates into effect after the 8-month suspension period.

Under this bill, the commission would be able to conduct limited proceedings on any matter within its jurisdiction, including rate adjustments for any specific telephone company. In addition, the PSC could deny any request to expand the scope of the proceeding.

Under the AT & T antitrust settlement, changes in the telecommunications industry have made intrastate toll settlement agreements obsolete. This bill authorizes the PSC to review contracts for joint provisions of intrastate interexchange service, the successor to intrastate toll settlement agreements.

The PSC is authorized to fine or penalize any entity under its jurisdiction which violates a commission’s order, rule, or statute, regardless of whether or not it has a certificate of convenience or necessity.

This bill clarifies the provisions of chapter 364, Florida Statutes, relating to changes in telephone company ownership or control which require a certificate change.

Explicit authority to regulate competing or duplicative cellular mobile radio telephone services is granted to the commission.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

This bill codifies what the PSC is currently doing regarding telephone directory advertising revenues. If the Supreme Court
were to rule in Southern Bell's favor and no statutory authority was provided to the PSC to include such revenues, then the ratepayer would have to bear the burden of that lost revenue. As written, however, the bill has no substantial impact in that area since it merely reflects the PSC's current practices.

By allowing a telephone company the option of whether or not to put proposed rates into effect at the end of the 8-month suspension period, eliminates the situation where a telephone company would have to issue refunds to the ratepayers. This can be costly to the telephone company in terms of both administrative and interest expenses. Such costs are usually passed on to the ratepayer.

According to a PSC spokesman, it is anticipated that the provision allowing limited proceedings will lengthen the time between telephone company full rate cases. These can be very costly in terms of time and expenses to not only the telephone company, but also to the PSC. Such expenses are ultimately borne by the ratepayer.

B. Government:

The new penalty provision would allow the commission to deal with violations by an uncertificated company on an administrative level rather than to seek judicial relief which is more costly and time-consuming. Ratepayers ultimately benefit when violations are dealt with in a timely fashion.

III. COMMENTS:

IV. AMENDMENTS:
A bill to be entitled
An act relating to telephone companies;
creating s. 364.037, Florida Statutes,
requiring the Public Service Commission to
consider certain directory advertising revenues
in establishing rates; amending s. 364.05(4),
Florida Statutes, allowing certain rates to
become effective under certain conditions;
amending s. 364.07(2), Florida Statutes,
authorizing the Public Service Commission to
review intrastate interexchange service
contracts and take certain actions; creating s.
364.285, Florida Statutes, authorizing the
Public Service Commission to impose certain
penalties; providing that such penalties become
liens on certain property; providing for the
deposit of such penalties in the General
Revenue Fund unallocated; amending s. 364.33,
Florida Statutes, requiring a certificate of
necessity for persons obtaining ownership or
control of certain telephone property; adding
subsection (6) to s. 364.335, Florida Statutes,
1982 Supplement, relating to duplicative or
competitive cellular mobile radio telephone
service; providing for future review and
repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 364.037, Florida Statutes, is
created to read:

CODING: Words in struck through type are deletions from existing law; words underlined are additions.
364.037 Telephone directory advertising revenues.--

(1) The commission shall consider revenues derived from advertising in telephone directories when establishing rates for telecommunication services. When establishing such rates, the gross profits from all directory advertising in a company's local franchise area shall be allocated between the regulated and nonregulated portions of the company's operation as provided in this section.

(2) Gross profits derived from directory advertising to be included in the calculation of earnings for rate-making purposes shall be the amount of gross profits derived from directory advertising during the year 1982 adjusted, for each subsequent year, by the Consumer Price Index as published by the United States Department of Commerce and by customer growth or, if lesser, the amount of gross profits actually derived from directory advertising in the local franchise area for the year.

(3) Gross profits derived from directory advertising to be allocated to a company's nonregulated operation shall be the gross profits in excess of the adjusted 1982 amount, as determined in accordance with subsection (2).

(4) For the purpose of this section, the amount of a telephone company's gross profits from directory advertising for the year 1982 shall be the actual gross profits derived from such advertising for that year. If, however, a telephone company's expense to furnish directories in 1982 exceeded 40 percent of the gross revenues derived from its directory advertising, the company's 1982 level of gross profits shall be adjusted to reflect a cost of 40 percent of its 1982 gross revenues. This adjusted 1982 gross profit level shall be
utilized, in lieu of actual 1982 gross profits, when making
the calculations in subsection (2).

(5) Any profits associated with providing directory
advertising service outside the company's franchise area shall
not be considered when determining gross profits derived from
directory advertising for rate-making purposes. Any
investment or expenses associated with providing directory
advertising service outside the company's franchise area shall
not be recovered through rates for telephone service.

(6) Notwithstanding any provision of this section to
the contrary, no less than two-thirds of the total gross
profits from directory advertising within its local franchise
area for any year shall be included in the regulated portion
of a company's operation when establishing rates.

Section 2. Subsection (4) of section 364.05, Florida
Statutes, is amended to read:

364.05 Changing rates, tolls, rentals, contracts, or
charges.--

(4) Pending a final order by the commission in any
rate proceeding under this section, the commission may
withhold consent to the operation of all or any portion of the
new rate schedules, delivering to the telephone company
requesting such increase, within 60 days, a reason or written
statement of good cause for withholding its consent. Such
consent shall not be withheld for a period longer than 8
months from the date of filing the new schedules. The new
rates or any portion not consented to may, at the option of
the company, shall go into effect under bond or corporate
undertaking at the end of such period, but the commission
shall, by order, require such telephone company to keep
an accurate account in detail of all amounts received by reason
of such increase, specifying by whom and in whose behalf such
amounts were paid and, upon completion of hearing and final
decision in such proceeding, shall by further order require
such telephone company to refund with interest at a fair rate,
to be determined by the commission in such manner as it may
direct, such portion of the increased rate or charge as by its
decision shall be found not justified. Any portion of such
refund not thus refunded to patrons or customers of the
telephone company shall be refunded or disposed of by the
telephone company as the commission may direct; however, no
such funds shall accrue to the benefit of the telephone
company. The commission shall take final commission action in
the docket and enter its final order within 12 months after
the commencement date for final agency action. As used in
this section, "commencement date for final agency action"
means the date upon which it has been determined by the
commission or its designee that the telephone company has
filed with the clerk the minimum filing requirements as
established by rule of the commission. Within 30 days after
receipt of the application, rate request, or other written
document for which the commencement date for final agency
action is to be established, the commission or its designee
shall either determine the commencement date for final agency
action or issue a statement of deficiencies to the applicant,
specifically listing why the applicant has failed to meet the
minimum filing requirements. The statement of deficiencies
shall be binding upon the commission to the extent that, once
the deficiencies in the statement are satisfied, the
commencement date for final agency action shall be promptly
established as provided in this section. Thereafter, within
15 days after the applicant indicates to the commission that
it believes that it has met the minimum filing requirements, the commission or its designee shall either determine the commencement date for final agency action or specifically enumerate in writing why the requirements have not been met, in which case this procedure shall be repeated until the commencement date for final agency action is established. When the commission initiates a proceeding, the commencement date for final agency action shall be the date upon which the order initiating the proceeding is issued.

Section 3. Subsection (2) of section 364.07, Florida Statutes, is amended to read:

364.07 Joint contracts; intrastate interexchange service contracts tell revenue settlement agreements.--

(2) The commission is authorized to review contracts for joint provision of intrastate interexchange service agreements and may disapprove any such agreement if such contract agreement is detrimental to the public interest. The commission may also require the filing of all necessary reports and information pertinent to joint provision contracts intrastate tell revenue settlements. The commission is also authorized to adjudicate disputes among telephone companies regarding such contracts or the enforcement thereof intrastate telecommunications settlements. In such disputes, the commission may assess interest, at a rate it shall determine.

Section 4. Section 364.285, Florida Statutes, is created to read:

364.285 Penalties.--The commission shall have the power to impose upon any entity subject to its jurisdiction under this chapter that is found to have refused to comply with or to have willfully violated any lawful rule or order of...
the commission or any provision of this chapter a penalty for each offense of not more than $5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend or revoke any certificate issued by the commission. Each day that such refusal or violation continues shall constitute a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 85. Collected penalties shall be deposited in the General Revenue Fund unallocated.

Section 5. Section 364.33, Florida Statutes, is amended to read:

364.33 Certificate of necessity prerequisite to construction, operation or control of telephone line, plant, system.--No person shall hereafter begin the construction or operation of any telephone line, plant or system, or any extension thereof, or acquire ownership or control thereof, in whatever manner, including the acquisition, transfer, or assignment of majority organizational control or controlling stock ownership either directly or indirectly, without first obtaining from the commission a certificate that the present or future public convenience and necessity require or will require such construction, operation or acquisition; provided ss. 364.32-364.40 shall not require, nor shall it be so construed as to require, any such person to secure a certificate for an extension within any municipality within which such person has heretofore lawfully commenced operations, or for any extension within or to territory already served by such person, necessary in the ordinary course of business, or for substitute facilities within or to
any municipality or territory already served by such person, or for any extension into territory contiguous to that already served by such person and not receiving similar service from another such person when no certificate of convenience and necessity has been issued to or applied for by any other person, or for the acquisition and operation of any line, plant or system heretofore constructed or hereafter constructed under authority of a certificate of convenience and necessity hereafter issued or for the construction of which no such certificate was, under the provisions of this law, required. -

Section 6. Subsection (6) is added to section 364.335, Florida Statutes, 1982 Supplement, to read:

364.335 Application for certificate.--

(6) Notwithstanding any provision of this section to the contrary, the commission may grant a certificate to a company which will be providing duplicative or competitive cellular mobile radio telephone service.

Section 7. Each section which is added to chapter 364, Florida Statutes, by this act is repealed on October 1, 1989, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 8. This act shall take effect October 1, 1983.

CODING: Words in small through type are deletions from existing law; words underlined are additions.
STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR SENATE BILL 813

The committee substitute differs from the original bill in the
following ways:

1) Provides a method for considering directory advertising
revenues when establishing rates.

2) Deletes the provisions relating to limited proceedings.

3) Deletes the reference to the provisions relating to prescribing
different requirements for competing services.
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

ANALYST: Branning
STAFF DIRECTOR: Martis
REFERENCE: CON
ACTION: Fav/CS

SUBJECT: Telephone Companies
BILL NO. AND SPONSOR: CS/SB 0813 by Commerce Committee & Senator Gersten

I. SUMMARY:

A. Present Situation:

Chapter 364, Florida Statutes, provides for the regulation of telephone companies in Florida by the Public Service Commission (PSC). Section 364.03, Florida Statutes, requires that the rates, tolls, contracts and charges of telephone companies be fair, just, reasonable, and sufficient. When determining the rates to be charged by a telephone company, section 364.035, Florida Statutes, requires the PSC to consider the following criteria:

1. Efficiency, sufficiency, and adequacy of facilities;
2. Energy conservation and the efficient use of alternate resources;
3. Ability to improve service and facilities; and
4. Value of service.

Currently, the PSC includes the revenues, investment and associated costs of directory advertising in a telephone company’s net operating income and rate base when establishing and setting rates. Southern Bell has recently appealed the inclusion of directory revenues in the rate base alleging that the PSC has exceeded its jurisdiction. That case is currently pending before the Florida Supreme Court.

Section 364.05, Florida Statutes, contains the procedure for filing rates and rate change requests, commonly referred to as the “file and suspend law.” The PSC has 60 days in which to act on a petition for rate changes. If the PSC desires to withhold consent, it must indicate the reason. This consent cannot be withheld for a period longer than 8 months. If no order is issued at the end of 8 months, the telephone company must place the new rates into effect under bond or corporate undertaking subject to refund until a final order is issued by the PSC. A final order must be issued within 12 months after the commencement date for final agency action.

Section 364.07, Florida Statutes, authorizes the PSC to review and approve all intrastate toll settlement agreements, which must be filed with the commission, and to adjudicate disputes regarding settlements.

The commission, pursuant to section 350.127, Florida Statutes, has the authority to fine or penalize any regulated company under its jurisdiction for violation of any commission rule or order, or any statute administered by the Commission. However, the Commission does not have the authority to fine or penalize...
Section 364.33, Florida Statutes, requires that whenever the ownership or control of a telephone company changes, a new certificate must be obtained. Currently, there appears to be some disagreement concerning what kinds of organizational changes will trigger the need for a new certificate.

The PSC has the jurisdiction to regulate companies engaged in cellular mobile radio telephone service except for those areas of regulation preempted by the F.C.C. Basically, the PSC will regulate the rates and services of these companies for which a certificate of convenience or necessity will be required.

B. Effect of Proposed Changes:

The bill gives the PSC the express statutory authority to consider the revenues derived from advertising in telephone directories when establishing rates and provides a method for considering such revenues. The method provided allows the telephone company to share in telephone directory profits. Under the bill, the PSC will continue to include in the rate base an amount equal to the actual 1982 gross profits plus a growth factor based on the Consumer Price Index and customer growth. Gross profits above this amount would be retained by the telephone company and therefore not included in the rate base. In the event a telephone company's expense to furnish directories in 1982 exceeded 40 percent of the gross revenues derived from its directory advertising, the company's 1982 level of gross profits is to be adjusted to reflect a cost of 40 percent. However, the bill provides that in no event can the company retain more than one-third of the total gross profits from directory advertising within its local franchise area.

Telephone companies would have the option of placing proposed new rates into effect after the 8-month suspension period.

Under the AT & T antitrust settlement, changes in the telecommunications industry have made intrastate toll settlement agreements obsolete. This bill authorizes the PSC to review contracts for joint provisions of intrastate interexchange service, the successor to intrastate toll settlement agreements.

The PSC is authorized to fine or penalize any entity under its jurisdiction which violates a commission's order, rule, or statute, regardless of whether or not it has a certificate of convenience or necessity.

This bill clarifies the provisions of chapter 364, Florida Statutes, relating to changes in telephone company ownership or control which require a certificate change.

Explicit authority to regulate competing or duplicative cellular mobile radio telephone services is granted to the commission.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

There is some disagreement on the impact that the directory advertising provisions of this bill will have on the ratepayers and the telephone companies themselves. The commission, in a 4 to 1 vote, supports the provisions of this bill which allow a telephone company to retain as much as one-third of the total gross revenue for directory advertising. This could allow a
telephone company to improve its financial condition and thereby provide a better return to its stockholders. At the same time, at least two-thirds of the gross revenue from such advertising will continue to be used to subsidize rates for local service. The majority view of the commission is that the inclusion of the specified advertising revenues will continue to keep local telephone service at an affordable level while providing an incentive for the telephone companies to remain in the directory advertising business.

There is, however, a minority dissenting view from the commission. According to the dissenting commissioner, this bill will allow the telephone company to substantially increase its profitability at the expense of the ratepayer. In 1982, the total gross profit for directory advertising for all regulated telephone companies was approximately $42 million. It is argued that if this bill were in effect in 1982, approximately $15 million would have accrued to the benefit of the stockholders. That amount, then, would have been borne by the ratepayers in the form of rate increases.

B. Government:

The new penalty provision would allow the commission to deal with violations by an uncertificated company on an administrative level rather than to seek judicial relief which is more costly and time-consuming. Ratepayers ultimately benefit when violations are dealt with in a timely fashion.

III. COMMENTS:

IV. AMENDMENTS:
I. SUMMARY:

A. Present Situation:

Chapter 364, Florida Statutes, provides for the regulation of telephone companies in Florida by the Public Service Commission (PSC). Section 364.03, Florida Statutes, requires that the rates, tolls, contracts and charges of telephone companies be fair, just, reasonable, and sufficient. When determining the rates to be charged by a telephone company, section 364.035, Florida Statutes, requires the PSC to consider the following criteria:

1. Efficiency, sufficiency, and adequacy of facilities;
2. Energy conservation and the efficient use of alternate resources;
3. Ability to improve service and facilities; and
4. Value of service.

Currently, the PSC includes the revenues, investment and associated costs of directory advertising in a telephone company's net operating income and rate base when establishing and setting rates. Southern Bell has recently appealed the inclusion of directory revenues in the rate base alleging that the PSC has exceeded its jurisdiction. That case is currently pending before the Florida Supreme Court.

Section 364.05, Florida Statutes, contains the procedure for filing rates and rate change requests, commonly referred to as the "file and suspend law." The PSC has 60 days in which to act on a petition for rate changes. If the PSC desires to withhold consent, it must indicate the reason. This consent cannot be withheld for a period longer than 8 months. If no order is issued at the end of 8 months, the telephone company must place the new rates into effect under bond or corporate undertaking subject to refund until a final order is issued by the PSC. A final order must be issued within 12 months after the commencement date for final agency action.

Section 364.07, Florida Statutes, authorizes the PSC to review and approve all intrastate toll settlement agreements, which must be filed with the commission, and to adjudicate disputes regarding settlements.

The commission, pursuant to section 350.127, Florida Statutes, has the authority to fine or penalize any regulated company under its jurisdiction for violation of any commission rule or order, or any statute administered by the Commission. However, the Commission does not have the authority to fine or penalize

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SUBJECT: Telephone Companies

BILL NO. AND SPONSOR: CS/SSB 0813 by Commerce Committee & Senator Gersten

Laid on Table - HB 1190 passed
a telephone company which is subject to regulation, but refuses to apply for a certificate.

Section 364.33, Florida Statutes, requires that whenever the ownership or control of a telephone company changes, a new certificate must be obtained. Currently, there appears to be some disagreement concerning what kinds of organizational changes will trigger the need for a new certificate.

The PSC has the jurisdiction to regulate companies engaged in cellular mobile radio telephone service except for those areas of regulation preempted by the F.C.C. Basically, the PSC will regulate the rates and services of these companies for which a certificate of convenience or necessity will be required.

B. Effect of Proposed Changes:

The bill gives the PSC the express statutory authority to consider the revenues derived from advertising in telephone directories when establishing rates and provides a method for considering such revenues. The method provided allows the telephone company to share in telephone directory profits. Under the bill, the PSC will continue to include in the rate base an amount equal to the actual 1982 gross profits plus a growth factor based on the Consumer Price Index and customer growth. Gross profits above this amount would be retained by the telephone company and therefore not included in the rate base. In the event a telephone company's expense to furnish directories in 1982 exceeded 40 percent of the gross revenues derived from its directory advertising, the company's 1982 level of gross profits is to be adjusted to reflect a cost of 40 percent. However, the bill provides that in no event can the company retain more than one-third of the total gross profits from directory advertising within its local franchise area.

Telephone companies would have the option of placing proposed new rates into effect after the 8-month suspension period.

Under the AT & T antitrust settlement, changes in the telecommunications industry have made intrastate toll settlement agreements obsolete. This bill authorizes the PSC to review contracts for joint provisions of intrastate interexchange service, the successor to intrastate toll settlement agreements.

The PSC is authorized to fine or penalize any entity under its jurisdiction which violates a commission's order, rule, or statute, regardless of whether or not it has a certificate of convenience or necessity.

This bill clarifies the provisions of chapter 364, Florida Statutes, relating to changes in telephone company ownership or control which require a certificate change. Explicit authority to regulate competing or duplicative cellular mobile radio telephone services is granted to the commission.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

There is some disagreement on the impact that the directory advertising provisions of this bill will have on the ratepayers and the telephone companies themselves. The commission, in a 4 to 1 vote, supports the provisions of this bill which allow a telephone company to retain as much as one-third of the total gross revenue for directory advertising. This could allow a
telephone company to improve its financial condition and thereby provide a better return to its stockholders. At the same time, at least two-thirds of the gross revenue from such advertising will continue to be used to subsidize rates for local service. The majority view of the commission is that the inclusion of the specified advertising revenues will continue to keep local telephone service at an affordable level while providing an incentive for the telephone companies to remain in the directory advertising business.

There is, however, a minority dissenting view from the commission. According to the dissenting commissioner, this bill will allow the telephone company to substantially increase its profitability at the expense of the ratepayer. In 1982, the total gross profit for directory advertising for all regulated telephone companies was approximately $42 million. It is argued that if this bill were in effect in 1982, approximately $15 million would have accrued to the benefit of the stockholders. That amount, then, would have been borne by the ratepayers in the form of rate increases.

B. Government:

The new penalty provision would allow the commission to deal with violations by an uncertificated company on an administrative level rather than to seek judicial relief which is more costly and time-consuming. Ratepayers ultimately benefit when violations are dealt with in a timely fashion.

III. COMMENTS:

IV. AMENDMENTS:
A bill to be entitled
An act relating to telephone companies;
creating s. 364.037, Florida Statutes,
requiring the Public Service Commission to
consider certain revenues in establishing
rates; amending s. 364.05(4), Florida Statutes,
allowing certain rates to become effective
under certain conditions; amending s.
364.07(2), Florida Statutes, authorizing the
Public Service Commission to review intrastate
interchange service contracts and take
certain actions; creating s. 364.28, Florida
Statutes, authorizing the Public Service
Commission to impose certain penalties;
providing that such penalties become liens on
certain property; providing for the allocation
of such penalties in the General Revenue Fund;
amending s. 364.33, Florida Statutes, requiring
a certificate for persons obtaining ownership
or control of certain telephone property;
adding new subsection (6) to s. 364.335,
Florida Statutes, 1982 Supplement, relating to
duplicative or competitive cellular mobile
radio telephone service; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 364.037, Florida Statutes, is
created to read:

364.037 Telephone Directory Advertising Revenues.--
(1) The commission shall consider revenues derived from advertising in telephone directories when establishing rates for telecommunication services. When establishing such rates, the gross profits from all directory advertising in a company's local franchise area shall be allocated between the regulated and non-regulated portions of the company's operation as provided in this section.

(2) Gross profits derived from directory advertising to be included in the calculation of earnings for rate making purposes shall be the amount of gross profits derived from directory advertising during the year 1982 adjusted, for each subsequent year, by the consumer price index as published by the United States Department of Commerce and by customer growth.

(3) Gross profits derived from directory advertising to be allocated to a company's non-regulated operation shall be the gross profits in excess of the adjusted 1982 amount as determined in accordance with subsection (2).

(4) For the purpose of this section, the amount of a telephone company's gross profits from directory advertising for the year 1982 shall be the actual gross profits derived from such advertising for that year. If, however, a telephone company's expenses to publish directories in 1982 exceeded 40% of the gross revenues derived from its directory advertising, the company's 1982 level of gross profits shall be adjusted to reflect a publishing cost of 40% of its 1982 gross revenues. This adjusted 1982 gross profit level shall be utilized, in lieu of actual 1982 gross profits, when making the calculations in subsection (2).

(5) Any profits associated with providing directory advertising service outside the company's franchise area shall
PCB Po6b

not be considered when determining gross profits derived from
directory advertising for rate making purposes. Any
investment or expenses associated with providing directory
advertising service outside the company's franchise area shall
not be recovered through rates for telephone service.

(6) Notwithstanding any provision of this section to
the contrary, no less than two-thirds of the total gross
profits from directory advertising for any year shall be
included in the regulated portion of a company's operation
when establishing rates.

Section 2. Subsection (4) of s. 364.05, Florida
Statutes, is amended to read:

364.05 Changing rates, tolls, rentals, contracts, or
charges.—

(4) Pending a final order by the commission in any
rate proceeding under this section, the commission may
withhold consent to the operation of all or any portion of the
new rate schedules, delivering to the telephone company
requesting such increase, within 60 days, a reason or written
statement of good cause for withholding its consent. Such
consent shall not be withheld for a period longer than 8
months from the date of filing the new schedules. The new
rates or any portion not consented to may cease go into effect
under bond or corporate undertaking at the end of such period,
but the commission shall, by order, require such telephone
company to keep accurate account in detail of all amounts
received by reason of such increase, specifying by whom and in
whose behalf such amounts were paid and, upon completion of
hearing and final decision in such proceeding, shall by
further order require such telephone company to refund with
interest at a fair rate, to be determined by the commission in
such manner as it may direct, such portion of the increased rate or charge as by its decision shall be found not justified. Any portion of such refund not thus refunded to patrons or customers of the telephone company shall be refunded or disposed of by the telephone company as the commission may direct; however, no such funds shall accrue to the benefit of the telephone company. The commission shall take final commission action in the docket and enter its final order within 12 months after the commencement date for final agency action. As used in this section, "commencement date for final agency action" means the date upon which it has been determined by the commission or its designee that the telephone company has filed with the clerk the minimum filing requirements as established by rule of the commission. Within 30 days after receipt of the application, rate request, or other written document for which the commencement date for final agency action is to be established, the commission or its designee shall either determine the commencement date for final agency action or issue a statement of deficiencies to the applicant, specifically listing why the applicant has failed to meet the minimum filing requirements. The statement of deficiencies shall be binding upon the commission to the extent that, once the deficiencies in the statement are satisfied, the commencement date for final agency action shall be promptly established as provided in this section. Thereafter, within 15 days after the applicant indicates to the commission that it believes that it has met the minimum filing requirements, the commission or its designee shall either determine the commencement date for final agency action or specifically enumerate in writing why the requirements have not been met, in which case this procedure shall be repeated.
until the commencement date for final agency action is established. When the commission initiates a proceeding, the commencement date for final agency action shall be the date upon which the order initiating the proceeding is issued.

Section 3. Subsection (2) of Section 364.07, Florida Statutes, is amended to read:

364.07 Joint contracts; intrastate interexchange service contracts; non-revenue-settlement agreements.--

(2) The commission is authorized to review contracts for joint provision of intrastate interexchange service and may disapprove any contract agreement if such contract agreement is detrimental to the public interest. The commission may also require the filing of all necessary reports and information pertinent to joint provision contracts and non-revenue settlement agreements. The commission is also authorized to adjudicate disputes among telephone companies regarding such contracts or the enforcement thereof. The commission may assess interest, at a rate it shall determine.

Section 4. Section 364.28, Florida Statutes, is created to read:

364.28 Penalties.--The commission shall have the power to impose upon any entity subject to its jurisdiction under this chapter that is found to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than $5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend or revoke any certificate issued by the commission. Each day that such
refusal or violation continues shall constitute a separate
offense. Each penalty shall be a lien upon the real and
personal property of the entity, enforceable by the commission
as a statutory lien under chapter 95. Collected penalties
shall be deposited in the General Revenue Funds unallocated
monies.

Section 5. Section 364.33, Florida Statutes, is
amended to read:

364.33 Certificate of necessity prerequisite to
construction, operation or control of telephone line, plant,
system.—No person shall hereafter begin the construction or
operation of any telephone line, plant or system, or any
extension thereof, or acquire ownership or control thereof, in
whatever manner, including the acquisition, transfer, or
assignment of majority organizational control or controlling
stock ownership directly or indirectly, without first
obtaining from the commission a certificate that the present
or future public convenience and necessity requires or will
require such construction, operation or acquisition; provided
as 364.32-364.40 shall not require, nor shall it be so
construed as to require, any such person to secure a
certificate for an extension within any municipality within
which such person has heretofore lawfully commenced
operations, or for any extension within or to territory
already served by such person, necessary in the ordinary
course of business, or for substitute facilities within or to
any municipality or territory already served by such person,
or for any extension into territory contiguous to that already
served by such person and not receiving similar service from
another such person when no certificate of convenience and
necessity has been issued to or applied for by any other
person, or for the acquisition and operation of any line, plant or system heretofore constructed or hereafter constructed under authority of a certificate of convenience and necessity hereafter issued or for the construction of which no such certificate was, under the provisions of this law, required.

Section 6. Subsection (6) is added to section 364.335, Florida Statutes, 1982 Supplement, to read:

364.335 Application for certificate.—

(6) Notwithstanding any provision of this section to the contrary, the commission may grant a certificate to a company which will be providing duplicative or competitive cellular mobile radio telephone service.

Section 7. This act shall take effect October 1, 1983.
I. SUMMARY

A. Present Situation

Chapter 364 requires that "rates, tolls, contracts, and charges of...telephone companies...be fair, just, reasonable, and sufficient." The PSC includes the revenues, investment and associated costs of directory advertising in a telephone company's net operating income and rate base when setting rates. Southern Bell has appealed the inclusion of directory revenues in the rate base alleging that the commission has exceeded its jurisdiction. The case is currently pending before the Supreme Court. Section 364.035 provides very general categories of items to be considered by the PSC in setting rates, and directory revenues are not mentioned specifically.

When a telephone company requests a rate adjustment, the commission can withhold its consent to the proposed new rates for up to eight months while it considers the application. If the commission has not acted on the application within 8 months, the new rates must be implemented, even if the company would prefer to wait for the commission ruling.

Whenever the PSC considers an issue which affects a company's rates, a full blown rate case must be initiated. There are some situations where issues could be handled in a more limited proceeding.

Under the A.T.&T. anti-trust settlement, changes in the telecommunications industry have made intrastate toll settlement agreements obsolete. New contracts will be developed to handle long-distance service charges between companies.

The commission does not have authority to fine or otherwise penalize a telephone company which is subject to regulation but which refuses to apply for a certificate.
Whenever ownership or control of a telephone company changes, a new certificate must be obtained. There is some disagreement concerning what kinds of organizational changes will trigger the need for a certificate application.

The PSC has the authority to regulate telephone companies that are in competition with each other. Deregulation will allow competing services, and there is currently no authority to regulate telecommunications services.

B. Effect on Present Situation

The bill provides specific authority for the consideration of directory advertising revenues in the rate setting process. Telephone companies would have the option of placing proposed new rates into effect after the 8 month suspension period.

The commission is given authority to conduct limited proceedings which will allow a more expedient handling of issues. The commission is also authorized to review contracts for joint provision of intrastate interexchange service, the successor to intrastate toll settlement agreements.

Telephone companies which are subject to PSC jurisdiction but which refuse to obey laws, rules, or PSC orders may be penalized and fined by the commission. The language in the bill is identical to s. 366.095 affecting electric and gas utilities. Language is clarified relating to changes in telephone company ownership or control which require an application for a new operating certificate.

The authority to regulate competing or duplicative services is given to the commission to allow it to keep up with changing developments in the telecommunications industry.

II. PRIVATE SECTOR/STATE/LOCAL FISCAL IMPACT

A. Private Sector Impact

Two provisions of the bill offer potential savings to companies. The use of a limited proceeding will reduce the expense of conducting a full-scale rate case. Since these costs are passed on to rate payers, any savings would benefit them, too. The option of not implementing new rates after the 8 month suspension period expires allows the company to save administrative and interest costs that would be associated with any refund required by
the final PSC order on the rate case. Neither of these potential savings can be quantified. Rate payers would benefit from the reduced expenses of regulated companies.

Companies not currently subject to penalties and fines by the PSC would become liable for fines of up to $5,000 per violation.

B. State Fiscal Impact

The use of limited proceedings would reduce the costs of the PSC to some extent.

III. COMMENTS

There is a potential fiscal impact related to the inclusion of telephone directory revenues in the rate base. If the Supreme Court rules that the practice is outside PSC authority, and no legislation remedies the situation, rate payers would make up the difference. As an example, Southern Bell had $64 million in annual directory revenues figured into their rate base. Eliminating that amount from the rate base would have cost each rate payer an additional estimated $29 a year or about $2.40 a month.

IV. AMENDMENTS

None

Prepared by: Chris Haughee
Staff Director: Bill Ryan
I. SUMMARY

A. Present Situation

Chapter 364 requires that "rates, tolls, contracts, and charges of...telephone companies...be fair, just, reasonable, and sufficient..." The PSC includes the revenues, investment and associated costs of directory advertising in a telephone company's net operating income and rate base when setting rates. Southern Bell has appealed the inclusion of directory revenues in the rate base alleging that the commission has exceeded its jurisdiction. The case is currently pending before the Supreme Court. Section 364.035 provides very general categories of items to be considered by the PSC in setting rates, and directory revenues are not mentioned specifically.

When a telephone company requests a rate adjustment, the commission can withhold its consent to the proposed new rates for up to eight months while it considers the application. If the commission has not acted on the application within 8 months, the new rates must be implemented, even if the company would prefer to wait for the commission ruling.

Under the A.T.&T. anti-trust settlement, changes in the telecommunications industry have made intrastate toll settlement agreements obsolete. New contracts will be developed to handle long-distance service charges between companies.

The commission does not have authority to fine or otherwise penalize a telephone company which is subject to regulation but which refuses to apply for a certificate.

Whenever ownership or control of a telephone company changes, a new certificate must be obtained. There is some disagreement concerning what kinds of organizational changes will trigger the need for a certificate application.
The PSC has the jurisdiction to regulate companies engaged in cellular mobile radio telephone service except for those areas of regulation pre-empted by the F.C.C. (technical standards, market structure, qualifications). The F.C.C. will allow two cellular mobile radio telephone service systems in each Standard Metropolitan Statistical Area (SMSA), one of which will be for the local telephone company. The other system will be certificated based on qualifications.

B. Effect on Present Situation

The bill provides a method for considering directory advertising revenues when establishing rates. Telephone companies would have the option of placing proposed new rates into effect after the 8 month suspension period.

The commission is authorized to review contracts for joint provision of intrastate interexchange service, the successor to intrastate toll settlement agreements.

Telephone companies which are subject to PSC jurisdiction but which refuse to obey laws, rules, or PSC orders may be penalized and fined by the commission. The language in the bill is identical to s. 366.095 affecting electric and gas utilities. Language is clarified relating to changes in telephone company ownership or control which require an application for a new operating certificate.

The authority to regulate competing or duplicative cellular mobile radio telephone services is given to the commission to allow it to keep up with changing developments in the telecommunications industry and F.C.C. rulings.

II. PRIVATE SECTOR/STATE/LOCAL FISCAL IMPACT

A. Private Sector Impact

The method for allocating directory revenues allows companies to share in the profits. It is not possible to quantify this impact. The option of not implementing new rates after the 8 month suspension period expires allows the company to save administrative and interest costs that would be associated with any refund required by the final PSC order on the rate case. Neither of these potential savings can be quantified. Rate payers would benefit from the reduced expenses of regulated companies.
Companies not currently subject to penalties and fines by the PSC would become liable for fines of up to $5,000 per violation.

III. COMMENTS

There is a potential fiscal impact related to the inclusion of telephone directory revenues in the rate base. If the Supreme Court rules that the practice is outside PSC authority, and no legislation remedies the situation, rate payers would make up the difference. As an example, Southern Bell had $64 million in annual directory revenues figured into their rate base. Eliminating that amount from the rate base would have cost each rate payer an additional estimated $29 a year or about $2.40 a month.

IV. AMENDMENTS

None

Prepared by: Chris Haughee

Staff Director: Bill Ryan
I. SUMMARY

A. Present Situation

Chapter 364 requires that "rates, tolls, contracts, and charges of telephone companies... be fair, just, reasonable, and sufficient." The PSC includes the revenues, investment and associated costs of directory advertising in a telephone company's net operating income and rate base when setting rates. Southern Bell has appealed the inclusion of directory revenues in the rate base alleging that the commission has exceeded its jurisdiction. The case is currently pending before the Supreme Court. Section 364.035 provides very general categories of items to be considered by the PSC in setting rates, and directory revenues are not mentioned specifically.

When a telephone company requests a rate adjustment, the commission can withhold its consent to the proposed new rates for up to eight months while it considers the application. If the commission has not acted on the application within 8 months, the new rates must be implemented, even if the company would prefer to wait for the commission ruling.

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The PSC has the jurisdiction to regulate companies engaged in cellular mobile radio telephone service except for those areas of regulation pre-empted by the F.C.C. (technical standards, market structure, qualifications). The F.C.C. will allow two cellular mobile radio telephone service systems in each Standard Metropolitan Statistical Area (SMSA), one of which will be for the local telephone company. The other system will be certified based on qualifications.

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The authority to regulate competing or duplicative cellular mobile radio telephone services is given to the commission to allow it to keep up with changing developments in the telecommunications industry and F.C.C. rulings.

II. PRIVATE SECTOR/STATE/LOCAL FISCAL IMPACT

A. Private Sector Impact

The method for allocating directory revenues allows companies to share in the profits. Under the proposal, the commission will continue to include in the rate base an amount equal to actual 1982 gross profits plus a growth factor based on the consumer price index and customer growth. Gross profits above this amount will not be included in the rate base, and the company will be able to use it in any manner they choose. There are three possible "artificial" adjustments to this basic formula:

1) 1982 gross profits will not be less than 60% of gross revenues. That is, the cost to furnish directories will be capped at 40% of 1982 gross revenues;
2) If a company experiences tremendous growth in gross profits, the amount to be included in the rate base will not be less than two-thirds of gross profits;
3) If actual gross profits fall below 1982 levels, only the profits actually earned will be taken into rate base. Compare the examples below.

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The option of not implementing new rates after the 8 month suspension period expires allows the company to save administrative and interest costs that would be associated with any refund required by the final PSC order on the rate case. Rate payers would benefit from the reduced expenses of regulated companies.

Companies not currently subject to penalties and fines by the PSC would become liable for fines of up to $5,000 per violation.

III. COMMENTS

There is a potential fiscal impact related to the inclusion of telephone directory revenues in the rate base. If the Supreme Court rules that the practice is outside PSC authority, and no legislation remedies the
situation, rate payers would make up the difference. As an example, Southern Bell had $64 million in annual directory revenues figured into their rate base. Eliminating that amount from the rate base would have cost each rate payer an additional estimated $29 a year or about $2.40 a month.

IV. AMENDMENTS

None

Prepared by: Chris Haughee
Staff Director: Bill Ryan
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<td>Barry Kutun</td>
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<td>X</td>
<td>Anne MacKenzie</td>
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<td></td>
<td>Elvin Martinez</td>
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<td></td>
<td>Chris Morris (A)</td>
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</tbody>
</table>

The following persons (other than legislators) appeared before the committee during the consideration of this bill:

<table>
<thead>
<tr>
<th>Name</th>
<th>Representing</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greg Krasovsky, Assc, General Counsel, P.S.C.</td>
<td>101 E. Gaines Street Tallahassee, Florida</td>
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</tr>
<tr>
<td>Dave Walker</td>
<td>Southern Bell Telephone Co.</td>
<td>311 S. Calhoun Street Tallahassee, Florida</td>
</tr>
</tbody>
</table>

NOTE: Please indicate by an “X” any State employee appearing at the request of Committee Chairman. (If additional persons, enter on reverse side and check here.)
SUBCOMMITTEE REPORT

File with Parent Committee

To Chairman, Committee on REGULATED INDUSTRIES & LICENSING

Subcommittee on PUBLIC UTILITIES

Date of meeting __ 6/73

Time 8:30 a.m.

Place 413 Capitol

FINAL ACTION: X FAVORABLE

*5 amendments placed on PCB at subcommittee meeting

VOTE:

<table>
<thead>
<tr>
<th>TEA</th>
<th>MEMBER</th>
<th>MAY</th>
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<tbody>
<tr>
<td>X</td>
<td>ROBERT BRANDSTED</td>
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<td>V</td>
<td>CURT COMER</td>
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<td>MARTIN EVANS</td>
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<td>X</td>
<td>D. MISCHKE</td>
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<td>I</td>
<td>GENE PENNY, CH.</td>
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</table>

Total 4 Yeas

Total 0 Nays

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SUBCOMMITTEE APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during consideration of this bill:

<table>
<thead>
<tr>
<th>Name</th>
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</thead>
<tbody>
<tr>
<td>Bill Bilenky</td>
<td>Public Service Commission</td>
<td>101 E. Gaines Street</td>
</tr>
<tr>
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<td>Tallahassee, Florida</td>
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<tr>
<td>Dave S. Walker</td>
<td>Southern Bell Telephone Co.</td>
<td>311 W. Calhoun St., Suite 202</td>
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<td></td>
<td>Tallahassee, Florida</td>
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<tr>
<td>David Swafford</td>
<td>Public Service Commission</td>
<td>101 E. Gaines Street</td>
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<tr>
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<td>Tallahassee, Florida</td>
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<td>101 E. Gaines Street</td>
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<tr>
<td>Susan Leiner, Commissioner</td>
<td>Public Service Comm.</td>
<td>Tallahassee, Florida</td>
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<td>101 E. Gaines Street</td>
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<td>Tallahassee, Florida</td>
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<tr>
<td>Woody Kohlman</td>
<td>General Telephone Co. of Fla.</td>
<td>101 E. Gaines Street</td>
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</table>

(If additional persons, enter on reverse side and check here _)

NOTE: Please indicate by an "X" any State employee appearing at the request of Subcommittee
Chairman

Received by Parent Committee:

Date                  

Received by 

H-74(1976)
Representative offered the following amendment:

On page 3, line 14, strike

and insert:

[Handwritten text]

adopted failed of adoption

H-02 (1980)
AMENDMENT -- FOR DRAFTING ONLY
(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative / The Committee on

offered the following amendment:

On page 2, line 23, strike "publish" and insert: furnish

adopted failed of adoption
AMENDMENT -- FOR DRAFTING ONLY

(MUST BE TYPED ON FORM H-29 OR H-39 BEFORE PRESENTATION)

Representative / The Committee on ________________________________

PCB-PU

offered the following amendment:

On page 2, line 26 strike "publishing" and insert:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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adoption, adopted failed of adoption

offered the following amendment:

On page 3 line 8 after "advertising"

mark insert: within its local franchise area
Representative offered the following amendment:

On page 3, line 23, insert:

"at the option of the company.

The amendment was adopted. If it failed of adoption, please indicate the reason.
A bill to be entitled

An act relating to telephone companies;
creating s. 364.037, Florida Statutes,
requiring the Public Service Commission to
consider certain directory advertising revenues
in establishing rates; amending s. 364.05(4),
Florida Statutes, allowing certain rates to
become effective under certain conditions;
amending s. 364.07(2), Florida Statutes,
authorizing the Public Service Commission to
review intrastate interexchange service
contracts and take certain actions; creating s.
364.285, Florida Statutes, authorizing the
Public Service Commission to impose certain
penalties; providing that such penalties become
liens on certain property; providing for the
deposit of such penalties in the General
Revenue Fund unallocated; amending s. 364.33,
Florida Statutes, requiring a certificate of
necessity for persons obtaining ownership or
control of certain telephone property; adding
subsection (6) to s. 364.335, Florida Statutes,
1982 Supplement, relating to duplicative or
competitive cellular mobile radio telephone
service; providing for future review and
repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 364.037, Florida Statutes, is
created to read:

CODING: Words in struck through type are deletions from existing law; words underlined are additions.
Telephone directory advertising revenues.--

(1) The commission shall consider revenues derived from advertising in telephone directories when establishing rates for telecommunication services. When establishing such rates, the gross profits from all directory advertising in a company's local franchise area shall be allocated between the regulated and nonregulated portions of the company's operation as provided in this section.

(2) Gross profits derived from directory advertising to be included in the calculation of earnings for rate-making purposes shall be the amount of gross profits derived from directory advertising during the year 1982 adjusted, for each subsequent year, by the Consumer Price Index as published by the United States Department of Commerce and by customer growth or, if lesser, the amount of gross profits actually derived from directory advertising in the local franchise area for the year.

(3) Gross profits derived from directory advertising to be allocated to a company's nonregulated operation shall be the gross profits in excess of the adjusted 1982 amount, as determined in accordance with subsection (2).

(4) For the purpose of this section, the amount of a telephone company's gross profits from directory advertising for the year 1982 shall be the actual gross profits derived from such advertising for that year. If, however, a telephone company's expense to furnish directories in 1982 exceeded 40 percent of the gross revenues derived from its directory advertising, the company's 1982 level of gross profits shall be adjusted to reflect a cost of 40 percent of its 1982 gross revenues. This adjusted 1982 gross profit level shall be
utilized, in lieu of actual 1982 gross profits, when making
the calculations in subsection (2).

(5) Any profits associated with providing directory
advertising service outside the company's franchise area shall
not be considered when determining gross profits derived from
directory advertising for rate-making purposes. Any
investment or expenses associated with providing directory
advertising service outside the company's franchise area shall
not be recovered through rates for telephone service.

(6) Notwithstanding any provision of this section to
the contrary, no less than two-thirds of the total gross
profits from directory advertising within its local franchise
area for any year shall be included in the regulated portion
of a company's operation when establishing rates.

Section 2. Subsection (4) of section 364.05, Florida
Statutes, is amended to read:

(4) Pending a final order by the commission in any
rate proceeding under this section, the commission may
withhold consent to the operation of all or any portion of the
new rate schedules, delivering to the telephone company
requesting such increase, within 60 days, a reason or written
statement of good cause for withholding its consent. Such
consent shall not be withheld for a period longer than 8
months from the date of filing the new schedules. The new
rates or any portion not consented to may, at the option of
the company, shall go into effect under bond or corporate
undertaking at the end of such period, but the commission
shall, by order, require such telephone company to keep
accurate account in detail of all amounts received by reason

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of such increase, specifying by whom and in whose behalf such
amounts were paid and, upon completion of hearing and final
decision in such proceeding, shall by further order require
such telephone company to refund with interest at a fair rate,
to be determined by the commission in such manner as it may
direct, such portion of the increased rate or charge as by its
decision shall be found not justified. Any portion of such
refund not thus refunded to patrons or customers of the
telephone company shall be refunded or disposed of by the
telephone company as the commission may direct; however, no
such funds shall accrue to the benefit of the telephone
company. The commission shall take final commission action in
the docket and enter its final order within 12 months after
the commencement date for final agency action. As used in
this section, "commencement date for final agency action"
means the date upon which it has been determined by the
commission or its designee that the telephone company has
filed with the clerk the minimum filing requirements as
established by rule of the commission. Within 30 days after
receipt of the application, rate request, or other written
document for which the commencement date for final agency
action is to be established, the commission or its designee
shall either determine the commencement date for final agency
action or issue a statement of deficiencies to the applicant,
specifically listing why the applicant has failed to meet the
minimum filing requirements. The statement of deficiencies
shall be binding upon the commission to the extent that, once
the deficiencies in the statement are satisfied, the
commencement date for final agency action shall be promptly
established as provided in this section. Thereafter, within
15 days after the applicant indicates to the commission that
it believes that it has met the minimum filing requirements,
the commission or its designee shall either determine the
 commencement date for final agency action or specifically
 enumerate in writing why the requirements have not been met,
in which case this procedure shall be repeated until the
 commencement date for final agency action is established.
 When the commission initiates a proceeding, the commencement
date for final agency action shall be the date upon which the
 order initiating the proceeding is issued.

Section 3. Subsection (2) of section 364.07, Florida
Statutes, is amended to read:

364.07 Joint contracts; intrastate interexchange
service contracts toll-revenue-settlement-agreements.--
(2) The commission is authorized to review contracts
for joint provision of intrastate interexchange service
intra income-settlement-agreements and may disapprove any
contract agreement if such contract agreement is
detrimental to the public interest. The commission may also
require the filing of all necessary reports and information
pertinent to joint provision contracts toll-revenue
settlements. The commission is also authorized to adjudicate
disputes among telephone companies regarding such contracts or
the enforcement thereof intrastate-telecommunications
settlements. In such disputes, the commission may assess
interest, at a rate it shall determine.

Section 4. Section 364.285, Florida Statutes, is
created to read:

364.285 Penalties.--The commission shall have the
power to impose upon any entity subject to its jurisdiction
under this chapter that is found to have refused to comply
with or to have willfully violated any lawful rule or order of
the commission or any provision of this chapter a penalty for
each offense of not more than $5,000, which penalty shall be
fixed, imposed, and collected by the commission; or the
commission may, for any such violation, amend, suspend or
revoke any certificate issued by the commission. Each day
that such refusal or violation continues shall constitute a
separate offense. Each penalty shall be a lien upon the real
and personal property of the entity, enforceable by the
commission as a statutory lien under chapter 85. Collected
genalties shall be deposited in the General Revenue Fund
unallocated.

Section 5. Section 364.33, Florida Statutes, is
amended to read:

364.33 Certificate of necessity prerequisite to
certification, operation or control of telephone line, plant,
construction, or system.—No person shall hereafter begin the construction or
operation of any telephone line, plant or system, or any
extension thereof, or acquire ownership or control thereof, in
whatever manner, including the acquisition, transfer, or
assignment of majority organizational control or controlling
stock ownership, either directly or indirectly, without first
obtaining from the commission a certificate that the present
or future public convenience and necessity require or will
require such construction, operation or acquisition; provided
ss. 364.32-364.40 shall not require, nor shall it be so
construed as to require, any such person to secure a
certificate for an extension within any municipality within
which such person has heretofore lawfully commenced
operations, or for any extension within or to territory
already served by such person, necessary in the ordinary
course of business, or for substitute facilities within or to

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any municipality or territory already served by such person,
or for any extension into territory contiguous to that already
served by such person and not receiving similar service from
another such person when no certificate of convenience and
necessity has been issued to or applied for by any other
person, or for the acquisition and operation of any line,
plant or system heretofore constructed or hereafter
constructed under authority of a certificate of convenience
and necessity hereafter issued or for the construction of
which no such certificate was, under the provisions of this
law, required.

Section 6. Subsection (6) is added to section 364.335,
Florida Statutes, 1982 Supplement, to read:

364.335 Application for certificate.--
(6) Notwithstanding any provision of this section to
the contrary, the commission may grant a certificate to a
company which will be providing duplicative or competitive
cellular mobile radio telephone service.

Section 7. Each section which is added to chapter 364,
Florida Statutes, by this act is repealed on October 1, 1989,
and shall be reviewed by the Legislature pursuant to s. 11.61,
Florida Statutes.

Section 8. This act shall take effect October 1, 1983.

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HOUSE SUMMARY

With respect to the regulation of telephone companies by the Florida Public Service Commission:

(1) Requires the commission to consider certain directory advertising revenues in establishing rates, and provides criteria for determination thereof.

(2) After the commission has withheld consent for 8 months from the date of filing new rate schedules, allows changes in rates, tolls, rentals, contracts, or charges to go into effect under bond or corporate undertaking under certain conditions, at the option of the telephone company.

(3) Authorizes the commission to review intrastate interchange service contracts, approve or disapprove same, and adjudicate disputes among telephone companies regarding such contracts or the enforcement thereof. In such disputes, authorizes the commission to assess interest. (Current terminology provides for review of "intrastate toll revenue settlement agreements.")

(4) Authorizes the commission to impose penalties of up to $5,000 for each occurrence of a violation of any of its lawful rules or orders or to suspend or revoke certificates of necessity issued by it. Provides that any such penalty shall be a lien upon the real and personal property of the violator, and provides for disposition of moneys collected.

(5) Requires persons acquiring, transferring, or assigning majority organizational control or controlling stock ownership of a telephone line, plant, or system to obtain a certificate of necessity from the commission prior thereto.

(6) Authorizes the commission to grant a certificate of necessity to a company which will be providing duplicative or competitive cellular mobile radio telephone service.

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