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# **Energy & Utilities Subcommittee**

**Tuesday, January 16, 2018  
11:30 AM – 2:30 PM  
216 Capitol**

**MEETING PACKET**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Energy & Utilities Subcommittee

**Start Date and Time:** Tuesday, January 16, 2018 11:30 am  
**End Date and Time:** Tuesday, January 16, 2018 02:30 pm  
**Location:** 216 Capitol  
**Duration:** 3.00 hrs

**Consideration of the following bill(s):**

HB 1081 Medically Essential Electric Utility Service by Perez  
HB 1167 Designation of Eligible Telecommunications Carriers by Leek

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Friday, January 12, 2018.

By request of Chair Trumbull, all Energy & Utilities Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Friday, January 12, 2018.

**NOTICE FINALIZED on 01/11/2018 4:22PM by Rigas.Amanda**



# The Florida House of Representatives

Commerce Committee

Energy & Utilities Subcommittee

Richard Corcoran  
Speaker

Jay Trumbull  
Chair

## AGENDA

Tuesday, January 16, 2018

216 Capitol

11:30 AM – 2:30 PM

- I. Call to Order & Roll Call
- II. Welcoming Remarks
- III. Consideration of the following bills(s):
  - HB 1081 by *Rep. Perez*  
Medically Essential Electric Utility Service
  - HB 1167 by *Rep. Leek*  
Designation of Eligible Telecommunications Carriers
- IV. Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1081 Medically Essential Electric Utility Service  
**SPONSOR(S):** Perez  
**TIED BILLS:**           **IDEN./SIM. BILLS:** SB 1630

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		Keating <i>CK</i>	Keating <i>CK</i>
2) Commerce Committee			

### SUMMARY ANALYSIS

Florida law, through s. 366.15, F.S., establishes procedures that each investor-owned electric utility (IOU) must follow when providing service to residential customers who depend on electric powered equipment for physician-certified medical reasons. This service is referred to as "medically essential" electric service.

The bill expands the law to require that municipal electric utilities and rural electric cooperatives offer medically essential electric service programs that comply with s. 366.15, F.S.

The bill also requires additional consumer education about medically essential electric service programs. In particular, the bill:

- Requires each electric utility to post on its website a written explanation of the certification process, including a standard application form and medical certification form adopted by the PSC.
- Requires each electric utility to provide a written explanation of the certification process to each residential customer at the time the customer opens an account with the utility and semiannually.
- Requires licensed physicians, physician assistants, and advanced registered nurse practitioners to inform eligible patients of the right to participate in medically essential electric service programs and to provide such patients a copy of s. 366.15, F.S., and, if requested, a completed medical certification.

The bill also modifies the certification and notice requirements associated with medically essential electric service programs. In particular, the bill:

- Allows for medical certification by licensed physician assistants and advanced registered nurse practitioners in addition to licensed physicians.
- Requires the medical certification to specify the time period for which service is expected to remain medically essential, up to 60 months, and requires recertification upon expiration of the current certification period (but no sooner than 12 months after issuance of the current certification).
- Requires the electric utility to provide recertification materials to certified customers at least 60 days prior to expiration of the customer's certification, and allows the utility to send recertification materials to the customer by e-mail if the customer has provided an email address.
- Requires an electric utility to provide notice to a certified customer before any disconnection of service for nonpayment:
  - By telephone and by e-mail (if an e-mail address has been provided by the customer) no later than 15 days and again no later than 7 days before the scheduled disconnection.
  - In person at the customer's residence no later than 2 business days before the scheduled disconnection, if the customer cannot be reached in a timely manner by telephone or e-mail.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Florida law, through s. 366.15, F.S., establishes procedures that each investor-owned electric utility<sup>1</sup> (IOU) must follow when providing service to residential customers who depend on electric powered equipment for physician-certified medical reasons. This service is referred to as “medically essential”<sup>2</sup> electric service.

Under the law, each IOU must:

- Designate employees who are authorized to direct the continuation or restoration of medically essential electric service.
- Provide annually to all customers a written explanation of the certification process for medically essential electric service, which includes:
  - Submittal of completed forms supplied by the utility, including a certification form completed by a physician licensed under ch. 458 or ch. 459, F.S., which states in medical and nonmedical terms why the electric service is medically essential; and
  - Recertification by a physician every 12 months.
- Provide recertification materials to a certified customer by mail at least 30 days prior to expiration of the customer’s certification, and allow the customer to submit completed recertification forms within 30 days after the expiration of certification.
- Provide notice to a certified customer before any disconnection of service for nonpayment:
  - By telephone at least 24 hours before the scheduled disconnection;
  - In person at the customer’s residence no later than 4 p.m. of the day before the scheduled disconnection, if the customer cannot be reached in a timely manner by telephone; and
  - By leaving written notification at the residence, if the customer cannot be reached by telephone or in person.
- Provide notice of any scheduled service interruptions to certified customers.

If a certified customer notifies its IOU of a need for financial assistance, the law requires the IOU to provide the customer with information on sources of state or local agency funding that may provide financial assistance to such customers. In addition, if an IOU operates a program to receive voluntary contributions from its customers to provide financial assistance to persons unable to pay for service, the IOU must train its customer service representatives to assist certified customers in identifying the program and any agencies to which the IOU has distributed the contributed funds.

The law provides that each certified customer maintains the responsibility to make satisfactory arrangements with the IOU to ensure payment for service consistent with the requirements of the IOU’s tariff. Further, the law provides that each certified customer is solely responsible for any backup equipment or power supply and a planned course of action in the event of a power outage or interruption of service. The law specifies that an IOU may disconnect service to a residence whenever an emergency may threaten the health or safety of a person, the surrounding area, or the public utility’s

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<sup>1</sup> Florida’s investor-owned electric utilities are Florida Power & Light Company, Duke Energy Florida, Tampa Electric Company, Gulf Power Company, and Florida Public Utilities Company. These utilities are referred to in statute as “public utilities” for purposes of regulation by the Public Service Commission. s. 366.02, F.S.

<sup>2</sup> The term “medically essential” is defined as “the medical dependence on electric-powered equipment that must be operated continuously or as circumstances require as specified by a physician to avoid the loss of life or immediate hospitalization of the customer or another permanent resident at the residential service address.” s. 366.15(1), F.S.

distribution system, provided that the IOU must promptly restore service as soon as feasible. The law states that it does not form the basis for any cause of action against an IOU.

The law does not apply to municipal electric utilities or rural electric cooperatives, but the majority of those utilities maintain programs for medically essential electric service, many under terms similar to the terms specified in law for IOUs.<sup>3</sup> The rates and service of municipal electric utilities and rural electric cooperatives are not regulated by the Public Service Commission (PSC).

Chapter 456, F.S., addresses the regulation of specified health care professions by the Department of Health. It does not address certification of patients for medically essential electric service.

### **Effect of Proposed Changes**

In summary, the bill requires additional consumer education about medically essential electric service programs and establishes additional protections for utility customers that are certified under such programs. In addition, the bill expands the law to include municipal electric utilities and rural electric cooperatives.

The bill amends s. 366.15, F.S., to replace all references to “public utility” – the term used in chapter 366, F.S., to describe investor-owned electric utilities – with the term “electric utility.” The term “electric utility” is used in chapter 366, F.S., to refer to all types of electric utilities, including investor-owned electric utilities, municipal electric utilities, and rural electric cooperatives. Thus, the bill expands the statutory requirements for medically essential electric service to all retail electric utilities in the state.

The bill requires additional consumer education about medically essential electric service programs. In particular, the bill:

- Requires that each electric utility post on its website a written explanation of the certification process, including a standard application form and medical certification form adopted by the PSC.
- Requires that each electric utility provide a written explanation of the certification process to each residential customer at the time the customer opens an account with the utility and semiannually thereafter, either through a bill insert or e-mail.
- Creates s. 456.45, F.S., to require certain health care practitioners – licensed physicians, physician assistants, and advanced registered nurse practitioners – to inform a patient of the right to participate in medically essential electric service programs and to provide the patient with a written copy of s. 366.15, F.S., if the patient may be at risk of loss of life or immediate hospitalization due to the loss of electric service at the patient’s residence. At the request of such a patient, the practitioner must provide the patient a completed medical certification using the form adopted by the PSC and document the certification in the patient’s record.

The bill also modifies the statutory requirements for medically essential electric service programs. With respect to the certification process, the bill:

- Allows for medical certification by licensed physician assistants and advanced registered nurse practitioners in addition to licensed physicians.
- Requires the medical certification to specify the time period for which service is expected to remain medically essential, up to 60 months.
- Requires recertification upon expiration of the current certification period but no sooner than 12 months after issuance of the current certification.

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<sup>3</sup>As of December 31, 2016, IOUs served 75% of residential customers in the state (6,937,595), while municipal electric utilities served 14% (1,247,474) and rural electric cooperatives served 11% (1,012,056). See FLORIDA PUBLIC SERVICE COMMISSION, Statistics of the Florida Electric Utility Industry, October 2017, at 44, available at

<http://www.floridapsc.com/Files/PDF/Publications/Reports/Electricgas/Statistics/2016.pdf>.

- Provides that the electric utility may send recertification materials to the customer by e-mail if the customer has provided an email address to the utility.
- Requires the electric utility to provide recertification materials to certified customers at least 60 days prior to expiration of the customer's certification.

With respect to notice prior to disconnection of service for nonpayment, the bill:

- Ensures that certified customers are provided no less time than other residential customers to make payment.
- Requires the electric utility to provide notice:
  - By telephone and by e-mail (if an e-mail address has been provided by the customer) no later than 15 days and again no later than 7 days before the scheduled disconnection.
  - In person at the customer's residence no later than 2 business days before the scheduled disconnection, if the customer cannot be reached in a timely manner by telephone or e-mail; and
  - By leaving written notification at the residence, if contact is not made.

The bill provides an effective date of July 1, 2018.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 366.15, F.S., related to medically essential electric public utility service.

**Section 2.** Creates s. 456.45, F.S., related to certification of medically essential electric utility service.

**Section 3.** Provides an effective date of July 1, 2018.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Electric utilities that currently provide medically essential electric service programs may incur costs to modify those programs to comply with the bill. Electric utilities that do not currently provide such programs will incur costs to establish those programs in compliance with the bill.



D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the PSC to adopt standard and medical certification forms by rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

Not applicable.



26 physician assistant licensed under chapter 458 or chapter 459 or  
 27 an advanced registered nurse practitioner licensed under chapter  
 28 464.

29 (b) "Medically essential" means the medical dependence on  
 30 electric-powered equipment that must be operated continuously or  
 31 as circumstances require as specified by a health care  
 32 practitioner ~~physician~~ to avoid the loss of life or immediate  
 33 hospitalization of the customer or another permanent resident at  
 34 the residential service address.

35 (2) Each electric ~~public~~ utility shall designate employees  
 36 who are authorized to direct an ordered continuation or  
 37 restoration of medically essential electric service. An electric  
 38 ~~A public~~ utility shall not impose upon any customer any  
 39 additional deposit to continue or restore medically essential  
 40 electric service.

41 (3) (a) Each electric ~~public~~ utility shall post on its  
 42 website a written explanation of the certification process for  
 43 obtaining medically essential electric service. The website must  
 44 provide standard and medical certification forms developed and  
 45 adopted by commission rule.

46 (b) Each electric utility shall ~~annually~~ provide a written  
 47 explanation of the certification process ~~for medically essential~~  
 48 ~~electric service~~ to each residential utility customer:

49 1. When the customer opens an account for electric service  
 50 with the electric utility; and

51 2. At least semiannually by including an insert in his or  
 52 her monthly statement or by e-mail if the customer has provided  
 53 the electric utility with his or her e-mail address.

54 (c) Certification that ~~of~~ a customer's electricity needs  
 55 are as medically essential requires the customer ~~to complete~~  
 56 ~~forms supplied by the public utility and to submit to the~~  
 57 electric utility a completed application that includes the  
 58 standard form and the medical certification ~~a form completed by~~  
 59 a health care practitioner ~~physician licensed in this state~~  
 60 ~~pursuant to chapter 458 or chapter 459~~ which states in medical  
 61 and nonmedical terms why the electric service is medically  
 62 essential and specifies the time period for which the electric  
 63 service is expected to remain medically essential. The  
 64 certification may not extend beyond 60 months. Falsification of  
 65 the ~~False~~ certification ~~of medically essential service by a~~  
 66 ~~physician~~ is a violation of s. 458.331(1)(h), ~~or~~ s.  
 67 459.015(1)(i), or s. 464.018(1)(f).

68 ~~(d)(b)~~ The certification must ~~Medically essential service~~  
 69 ~~shall~~ be recertified upon its expiration or ~~once every~~ 12 months  
 70 after its issuance under subsection (4), whichever is later. The  
 71 electric ~~public~~ utility shall send the ~~certified~~ customer by  
 72 regular mail, or by e-mail if the customer has provided his or  
 73 her e-mail address to the electric utility, a package of  
 74 recertification materials, including recertification forms, at  
 75 least 60 ~~30~~ days prior to the expiration of the customer's

76 certification. The materials shall advise the ~~certified~~ customer  
 77 that he or she must complete and submit the recertification  
 78 forms within 30 days after the expiration of the customer's  
 79 existing certification. If the recertification forms are not  
 80 received within this 30-day period, the electric ~~public~~ utility  
 81 may terminate the customer's certification.

82 (4) Each electric ~~public~~ utility must ~~shall~~ certify a  
 83 customer's electric service as medically essential if the  
 84 customer completes the requirements of subsection (3).

85 (5) Notwithstanding any other provision of this section,  
 86 an electric ~~a public~~ utility may disconnect service to a  
 87 residence whenever an emergency may threaten the health or  
 88 safety of a person, the surrounding area, or the electric  
 89 utility ~~public utility's~~ distribution system. The electric  
 90 ~~public~~ utility shall act promptly to restore service as soon as  
 91 feasible.

92 (6) A customer whose service is certified as medically  
 93 essential shall have the same time as a residential customer to  
 94 pay his or her monthly statement, but such time may not be fewer  
 95 than 20 days after the electric utility mails or e-mails his or  
 96 her monthly statement. Before an electric utility may disconnect  
 97 the customer's electric service for nonpayment, in addition to  
 98 any other notice provided in the utility's normal course of  
 99 business, the electric utility must attempt to contact the  
 100 customer no later than 15 days and again no later than 7 days

101 ~~before the scheduled disconnection 24 hours before any scheduled~~  
 102 ~~disconnection of service for nonpayment of bills to a customer~~  
 103 ~~who requires medically essential service, a public utility shall~~  
 104 ~~attempt to contact the customer by telephone and e-mail, if the~~  
 105 ~~customer has provided his or her e-mail address to the electric~~  
 106 ~~utility, in order to provide notice of the scheduled~~  
 107 ~~disconnection. If the customer does not have a telephone number~~  
 108 ~~listed on the account or if the electric public utility cannot~~  
 109 ~~reach the customer or other adult resident of the premises by~~  
 110 ~~telephone or e-mail by the specified time, the electric public~~  
 111 ~~utility shall send a representative to the customer's residence~~  
 112 ~~to attempt to contact the customer or resident, no later than 2~~  
 113 ~~business days 4 p.m. of the day before the scheduled~~  
 114 ~~disconnection. If contact is not made, however, the electric~~  
 115 ~~public utility must may leave written notification at the~~  
 116 ~~residence advising the customer of the scheduled disconnection.~~  
 117 ~~Thereafter, the electric public utility may disconnect service~~  
 118 ~~on the scheduled disconnection date if payment has not been made~~  
 119 ~~or the customer has not made satisfactory payment arrangements~~  
 120 ~~specified date.~~

121 (7) Each electric public utility customer who requires  
 122 medically essential service is responsible for making  
 123 satisfactory arrangements with the electric public utility to  
 124 ensure payment for such service, and such arrangements must be  
 125 consistent with the requirements of the utility's tariff.

126 (8) Each electric ~~public~~ utility customer who requires  
 127 medically essential service is solely responsible for any backup  
 128 equipment or power supply and a planned course of action in the  
 129 event of a power outage or interruption of service.

130 (9) Each electric ~~public~~ utility that provides electric  
 131 service to any customer whose electric service is certified as  
 132 medically essential ~~who requires medically essential service~~  
 133 shall call, contact, or otherwise advise and e-mail, if the  
 134 customer has provided his or her e-mail address to the electric  
 135 utility, the ~~such~~ customer of scheduled service interruptions.

136 (10)(a) Each electric ~~public~~ utility shall provide  
 137 information on sources of state or local agency funding that  
 138 ~~which~~ may provide financial assistance to the electric utility  
 139 ~~public utility's~~ customers who require medically essential  
 140 service and who notify the electric ~~public~~ utility of their need  
 141 for financial assistance.

142 (b)1. Each electric ~~public~~ utility that operates a program  
 143 to receive voluntary financial contributions from its ~~the public~~  
 144 ~~utility's~~ customers to provide assistance to persons who are  
 145 unable to pay for the electric utility ~~public utility's~~ services  
 146 shall maintain a list of all agencies to which the electric  
 147 ~~public~~ utility distributes such funds for such purposes and  
 148 shall make the list available to any ~~such~~ person who requests  
 149 the list.

150 2. Each electric ~~public~~ utility that operates such a

151 program shall:

152 a. Maintain a system of accounting for the specific  
 153 amounts distributed to each such agency, and the electric ~~public~~  
 154 utility and such agencies shall maintain a system of accounting  
 155 for the specific amounts distributed to persons under such  
 156 respective programs.

157 b. Train its customer service representatives to assist  
 158 any person who possesses a medically essential certification as  
 159 provided in this section in identifying such agencies and  
 160 programs.

161 (11) Nothing in this act shall form the basis for any  
 162 cause of action against an electric ~~a public~~ utility. Failure to  
 163 comply with any obligation created by this act does not  
 164 constitute evidence of negligence on the part of the electric  
 165 ~~public~~ utility.

166 Section 2. Section 456.45, Florida Statutes, is created to  
 167 read:

168 456.45 Certification of medically essential electric  
 169 utility service.-

170 (1) As used in this section, the term "health care  
 171 practitioner" means a physician or physician assistant licensed  
 172 under chapter 458 or chapter 459 or an advanced registered nurse  
 173 practitioner licensed under chapter 464.

174 (2) A health care practitioner who determines that a  
 175 patient may be at risk of loss of life or immediate



176 hospitalization if the patient were to lose electric service at  
177 the patient's residential service address shall inform the  
178 patient of the right to obtain certification under the medically  
179 essential electric service program pursuant to s. 366.15 and  
180 provide the patient with a written copy of the law.

181 (3) At the request of a patient who meets the criteria in  
182 subsection (2), the health care practitioner must provide the  
183 patient a completed medical certification using the form adopted  
184 by the Florida Public Service Commission under s. 366.15(3) and  
185 document the certification in the patient's record.

186 Section 3. This act shall take effect July 1, 2018.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: Energy & Utilities

Subcommittee

Representative Perez offered the following:

**Amendment**

Remove lines 44-182 and insert:

include the standard certification form adopted by rule of the commission. Each electric utility shall annually provide a written explanation of the certification process for medically essential electric service to each residential utility customer:

1. When the customer opens an account for electric service with the electric utility; and

2. At least semi annually, either by means of a written bill insert or, if the customer has provided contact information to receive electronic communications from the electric utility, by electronic means.



Amendment No.

17           **(b)** Certification ~~that~~ of a customer's electricity needs  
18 are ~~as~~ medically essential requires the customer ~~to complete~~  
19 ~~forms supplied by the public utility and to submit to the~~  
20 utility a completed certification in a standard form adopted by  
21 rule of the commission, which includes medical certification  
22 ~~form completed by a health care practitioner physician licensed~~  
23 ~~in this state pursuant to chapter 458 or chapter 459 which~~  
24 states in medical and nonmedical terms why the electric service  
25 is medically essential and specifies the time period for which  
26 the electric service is expected to remain medically essential.

27 The certification shall not extend beyond 60 months.

28 Falsification of such the False certification of medically  
29 ~~essential service by a physician~~ is a violation of s.  
30 458.331(1)(h), or s. 459.015(1)(i), or s. 464.018(1)(f).

31           **(c)** ~~(b)~~ Medically essential service must ~~shall~~ be  
32 recertified at the expiration of the time period specified in  
33 the certification or once every 12 months after certification,  
34 whichever is later. The electric public utility shall send the  
35 certified customer by regular mail, or by e-mail if the customer  
36 has provided the utility his or her e-mail address, a package of  
37 recertification materials, including recertification forms, at  
38 least 60 ~~30~~ days prior to the expiration of the customer's  
39 certification. The materials shall advise the ~~certified~~ customer  
40 that he or she must complete and submit the recertification  
41 forms within 30 days after the expiration of the customer's



Amendment No.

42 existing certification. If the recertification forms are not  
43 received within this 30-day period, the electric ~~public~~ utility  
44 may terminate the customer's certification.

45 (4) Each electric ~~public~~ utility must ~~shall~~ certify a  
46 customer's electric service as medically essential if the  
47 customer completes the requirements of subsection (3).

48 (5) Notwithstanding any other provision of this section,  
49 an electric ~~a public~~ utility may disconnect service to a  
50 residence whenever an emergency may threaten the health or  
51 safety of a person, the surrounding area, or the electric ~~public~~  
52 utility's distribution system. The electric ~~public~~ utility shall  
53 act promptly to restore service as soon as feasible.

54 (6) A customer whose electric service is certified as  
55 medically essential under this section is entitled, at a  
56 minimum, to the same time period for payment of bills that  
57 applies to all other residential customers served by the  
58 electric utility but no less than 20 days from the date the bill  
59 is mailed or delivered by the utility. If payment or  
60 satisfactory payment arrangements have not been made within the  
61 specified time period, the electric utility may schedule  
62 disconnection of service for nonpayment of bills. Prior to a  
63 scheduled disconnection of service for nonpayment of bills, the  
64 electric utility shall provide, in addition to any notice  
65 provided in the utility's normal course of business, the  
66 following notice to a customer whose electric service is

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Amendment No.

67 certified as medically essential under this section:

68 (a) No later than 15 days prior, and again no later than 7  
69 days prior, 24 hours before any scheduled disconnection of  
70 service for nonpayment of bills to a customer who requires  
71 medically essential service, the electric a public utility shall  
72 attempt to contact the customer by telephone in order to provide  
73 notice of the scheduled disconnection and shall provide such  
74 notice in writing, including by electronic means if the customer  
75 has provided contact information to receive electronic  
76 communications from the utility.

77 (b) If the customer does not have a telephone number  
78 listed on the account or if the electric public utility cannot  
79 reach the customer or other adult resident of the premises by  
80 telephone by the specified time, the electric public utility  
81 shall send a representative to the customer's residence to  
82 attempt to contact the customer, no later than 2 4 p.m. of the  
83 business days day before the scheduled disconnection. If contact  
84 is not made, however, the electric public utility must may leave  
85 written notification at the residence advising the customer of  
86 the scheduled disconnection and shall provide such notice by  
87 electronic means if the customer has provided contact  
88 information to receive electronic communications from the  
89 utility.

91 Thereafter, the electric public utility may disconnect service

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Amendment No.

92 on the scheduled disconnection ~~specified~~ date if payment to the  
93 electric utility has not been made or satisfactory payment  
94 arrangements with the electric utility have not been made.

95 (7) Each electric ~~public~~ utility customer who requires  
96 medically essential service is responsible for making  
97 satisfactory arrangements with the electric ~~public~~ utility to  
98 ensure payment for such service, and such arrangements must be  
99 consistent with the requirements of the utility's tariff.

100 (8) Each electric ~~public~~ utility customer who requires  
101 medically essential service is solely responsible for any backup  
102 equipment or power supply and a planned course of action in the  
103 event of a power outage or interruption of service.

104 (9) Each electric ~~public~~ utility that provides electric  
105 service to any customer whose electric service is certified as  
106 medically essential pursuant to this section ~~who requires~~  
107 ~~medically essential service~~ shall call, contact, or otherwise  
108 advise such customer of scheduled service interruptions.

109 (10)(a) Each electric ~~public~~ utility shall provide  
110 information on sources of state or local agency funding which  
111 may provide financial assistance to the ~~public~~ utility's  
112 customers who require medically essential service and who notify  
113 the ~~public~~ utility of their need for financial assistance.

114 (b)1. Each electric ~~public~~ utility that operates a program  
115 to receive voluntary financial contributions from the ~~public~~  
116 utility's customers to provide assistance to persons who are



Amendment No.

117 unable to pay for the ~~public~~ utility's services shall maintain a  
118 list of all agencies to which the ~~public~~ utility distributes  
119 such funds for such purposes and shall make the list available  
120 to any such person who requests the list.

121 2. Each public utility that operates such a program shall:

122 a. Maintain a system of accounting for the specific  
123 amounts distributed to each such agency, and the public utility  
124 and such agencies shall maintain a system of accounting for the  
125 specific amounts distributed to persons under such respective  
126 programs.

127 b. Train its customer service representatives to assist  
128 any person who possesses a medically essential certification as  
129 provided in this section in identifying such agencies and  
130 programs.

131 (11) Nothing in this act shall form the basis for any  
132 cause of action against an electric a ~~public~~ utility. Failure to  
133 comply with any obligation created by this act does not  
134 constitute evidence of negligence on the part of the electric  
135 ~~public~~ utility.

136 Section 2. Section 456.45, Florida Statutes, is created to  
137 read:

138 456.45 Certification of medically essential electric  
139 service.—

140 (1) As used in this section, the term "health care  
141 practitioner" means a physician or physician assistant licensed



Amendment No.

142 under chapters 458 or 459 or an advanced registered nurse  
143 practitioner licensed under chapter 464.

144 (2) A health care practitioner who determines that a  
145 patient may be at risk of loss of life or immediate  
146 hospitalization if the patient were to lose electric service at  
147 the patient's residential service address shall inform the  
148 patient of the right to obtain certification under the medically  
149 essential electric service program provided by the patient's  
150 electric utility pursuant to s. 366.15, and provide the patient  
151 a written copy of the law.

152 (3) Upon the request of such a patient, the health care  
153 practitioner must provide the  
154





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1167 Designation of Eligible Telecommunications Carriers  
**SPONSOR(S):** Leek  
**TIED BILLS:**           **IDEN./SIM. BILLS:** SB 1018

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee		Keating <i>CK</i>	Keating <i>AK</i>
2) Government Operations & Technology Appropriations Subcommittee			
3) Commerce Committee			

### SUMMARY ANALYSIS

“Universal Service” is the principle that all Americans should have access to communications services. To promote universal service, the Federal Communications Commission (FCC) administers the federal Universal Service Fund (USF). The federal USF pays for four programs, including the Lifeline/Link Up (Lifeline) program that provides monthly discounts to qualifying low-income consumers for voice and broadband services and the Connect America Fund (High-Cost Support) program that subsidizes telecommunications services to rural areas of the nation. To receive funding support through the federal USF for participation in these programs, a telecommunications provider must be designated as an eligible telecommunications carrier (ETC). Federal law gives state utility commissions primary responsibility for designating ETCs. The FCC is responsible for designating ETCs for each state whose utility commission lacks authority to do so. Since 2011, the Florida Public Service Commission (PSC) has lacked authority to designate wireless carriers as ETCs.

The bill amends s. 364.011, F.S., to allow for PSC oversight of certain telecommunications services that are otherwise exempt from PSC jurisdiction, but only as required by federal law for the specific purpose of designating ETCs. Thus, the bill would allow the PSC to resume designation of wireless carriers as ETCs for purposes of participation in the Lifeline program.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides that it will take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

“Universal Service” is the principle that all Americans should have access to communications services. The federal Telecommunications Act of 1996 established principles for universal service that specifically focused on increasing access to services for consumers living in rural and insular areas, and for consumers with low-incomes. Additional principles called for increased access to services in the nation’s schools, libraries, and rural health care facilities.<sup>1</sup>

To promote universal service, the Federal Communications Commission (FCC) administers the federal Universal Service Fund (USF). All telecommunications service providers and certain other providers of telecommunications must contribute to the federal USF based on a percentage of their interstate and international end-user telecommunications revenues. These companies include wireline phone companies, wireless phone companies, paging service companies, and certain Voice over Internet Protocol (VoIP) providers. Some consumers may notice a “Universal Service” line item on their telephone bills. This line item appears when a company chooses to recover its USF contributions directly from its customers by billing them this charge.<sup>2</sup>

The federal USF pays for four programs<sup>3</sup>:

- The Lifeline/Link Up (Lifeline) program provides monthly discounts to qualifying low-income consumers for voice and broadband services.
- The Connect America Fund (High-Cost Support) program ensures that consumers in all regions of the nation have access to telecommunications services at rates that are affordable and reasonably comparable to those in urban areas.
- The Schools and Libraries program makes discounts available to eligible schools and libraries for eligible telecommunications services, Internet access, and internal connections so that schools and libraries may have access to affordable telecommunications and information services
- The Rural Health Care program seeks to improve the quality of health care available to patients in rural communities by ensuring that health care providers serving those communities have access to telecom and broadband services.

To receive funding support through the federal USF for participation in the Lifeline program or the High-Cost Support program, a telecommunications provider must be designated as an eligible telecommunications carrier (ETC). A carrier may seek a limited ETC designation to receive support only to offer services under the Lifeline program.

Federal law gives state utility commissions primary responsibility for designating ETCs. The FCC is responsible for designating ETCs for each state whose utility commission lacks authority to do so.

In 2005, the Legislature created s. 364.011, F.S., which identifies specific services, including wireless telecommunications service, as exempt from oversight by the Florida Public Service Commission (PSC) “except to the extent ... specifically authorized by federal law.”<sup>4</sup> Based on its authority to designate

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<sup>1</sup> FEDERAL COMMUNICATIONS COMMISSION, *Universal Service*, <https://www.fcc.gov/general/universal-service> (last visited January 12, 2018).

<sup>2</sup> *Id.*

<sup>3</sup> FEDERAL COMMUNICATIONS COMMISSION, *Universal Service Support Mechanisms*, <https://www.fcc.gov/consumers/guides/universal-service-support-mechanisms> (last visited January 12, 2018).

<sup>4</sup> Chapter 2005-132, Laws of Fla.

ETCs under federal law, the PSC determined that the quoted language allowed it to designate wireless carriers as ETCs.

In 2011, the Legislature passed the "Regulatory Reform Act," completing the overall deregulation of retail landline telecommunications service in Florida.<sup>5</sup> Part of the Act amended s. 364.011, F.S., to remove the exception for PSC oversight "specifically authorized by federal law." Accordingly, the PSC has refrained from designating wireless carriers as ETCs since the Act became effective.<sup>6</sup> Thus, since 2011, a wireless carrier that wishes to be designated as an ETC to provide Lifeline service in Florida must apply to the FCC.

There are currently 13 wireline ETCs and 4 wireless ETCs designated in Florida.<sup>7</sup> There are currently 35 petitions for wireless ETC designation pending at the FCC, all of which request ETC designation for operations in Florida, among other states.<sup>8</sup>

### **Effect of Proposed Changes**

The bill amends s. 364.011, F.S., to allow for PSC oversight of certain telecommunications services that are otherwise exempt from PSC jurisdiction, but only where such oversight is specifically authorized by federal law for the specific purpose of making ETC designations for Lifeline service programs. Thus, the bill would allow the PSC to resume the designation of wireless carriers as ETCs for purposes of participation in the Lifeline program, but not for purposes of the High-Cost Support program.

The bill provides that it will become effective upon becoming law.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amending s. 364.011, F.S., relating to exemptions from Public Service Commission jurisdiction.

**Section 2.** Providing an effective date of upon becoming law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

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<sup>5</sup> Chapter 2011-36, Laws of Fla.

<sup>6</sup> Florida Public Service Commission, Agency Analysis of 2018 Senate Bill 1018, p. 1 (Dec. 13, 2017).

<sup>7</sup> *Id.* at p. 2

<sup>8</sup> *Id.* See also FEDERAL COMMUNICATIONS COMMISSION, *Lifeline Compliance Plans & ETC Petitions*, <https://www.fcc.gov/general/lifeline-compliance-plans-etc-petitions> (last visited January 12, 2018).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Given the backlog of pending requests at the FCC, the bill may allow a wireless carrier that seeks designation as an ETC in Florida to receive such a designation more expeditiously and, as a result, to offer services to eligible customers under the Lifeline program.<sup>9</sup>

D. FISCAL COMMENTS:

Florida historically has been, and continues to be, a net payer into the federal USF. The FCC's most recent annual USF monitoring report shows that telecommunications carriers contributed \$525 million associated with revenues from Florida operations and received \$220 million in payments from the federal USF for use in Florida.<sup>10</sup>

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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<sup>9</sup> Florida Public Service Commission, Agency Analysis of 2018 Senate Bill 1018, p. 2 (Dec. 13, 2017).

<sup>10</sup> FEDERAL COMMUNICATIONS COMMISSION, *Universal Service Monitoring Report*, 2016, at 18, available at <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>.

1                                   A bill to be entitled  
 2           An act relating to designation of eligible  
 3           telecommunications carriers; amending s. 364.011,  
 4           F.S.; providing that under specified circumstances  
 5           certain otherwise exempt telecommunication services  
 6           are subject to Public Service Commission oversight;  
 7           providing an effective date.

8  
 9   Be It Enacted by the Legislature of the State of Florida:

10  
 11           Section 1. Section 364.011, Florida Statutes, is amended  
 12           to read:

13           364.011 Exemptions from commission jurisdiction.—The  
 14           following services are exempt from oversight by the commission,  
 15           except to the extent delineated in this chapter or as required  
 16           by federal law for the purpose of designating eligible  
 17           telecommunications carriers:

- 18           (1) Intrastate interexchange telecommunications services.
- 19           (2) Broadband services, regardless of the provider,  
 20           platform, or protocol.
- 21           (3) VoIP.
- 22           (4) Wireless telecommunications, including commercial  
 23           mobile radio service providers.
- 24           (5) Basic service.
- 25           (6) Nonbasic services or comparable services offered by

26 | any telecommunications company.

27 |       Section 2. This act shall take effect upon becoming a law.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: Energy & Utilities  
 2 Subcommittee

3 Representative Leek offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (a) of subsection (1) of section  
 8 364.10, Florida Statutes, is amended to read:

9 364.10 Lifeline service.-

10 (1)(a) An eligible telecommunications carrier shall  
 11 provide a Lifeline Assistance Plan to qualified residential  
 12 subscribers, as defined in the eligible telecommunications  
 13 carrier's published schedules. For the purposes of this section,  
 14 the term "eligible telecommunications carrier" means a  
 15 telecommunications company, as defined by s. 364.02, ~~which is~~  
 16 designated as an eligible telecommunications carrier by the





Amendment No. 1

17 | commission pursuant to 47 C.F.R. s. 54.201. Notwithstanding the  
18 | provisions of s. 364.011, the term "eligible telecommunications  
19 | carrier" shall also include any commercial mobile radio service  
20 | provider designated by the commission pursuant to 47 C.F.R. s.  
21 | 54.201, and the commission shall be authorized to make such  
22 | designations, if petitioned, for the limited purpose of  
23 | providing Lifeline service.

24 | Section 2. This act shall take effect upon becoming law.

25 | -----  
26 |  
27 | **T I T L E A M E N D M E N T**

28 | Remove everything before the enacting clause and insert:

29 | A bill to be entitled

30 | An act relating to designation of eligible  
31 | telecommunications carriers; amending s. 364.10, F.S.;  
32 | authorizing the Public Service Commission to designate  
33 | any commercial mobile radio service provider as an  
34 | "eligible telecommunications carrier" for the purpose  
35 | of providing Lifeline service; providing an effective  
36 | date.