

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

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Prepared By: Communications and Public Utilities Committee

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BILL: CS/SB 142

INTRODUCER: Communications & Public Utilities Committee and Senators Fasano & Argenziano

SUBJECT: Telecommunication Rates

DATE: April 4, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Caldwell	CU	<b>Fav/CS</b>
2.	_____	_____	GE	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The committee substitute:

- Deletes the provision that allows an incumbent telecommunications company to elect to have its basic services treated as nonbasic.
- Requires a company to request from the commission to have its service quality requirements treated the same as competitive local exchange companies.
- Allows the company to petition the commission after parity is reached, for minimal regulatory treatment of its retail services, at a level no greater than that currently imposed on competitive local exchange telecommunications providers. In its petition, it must show and the commission must find that:
  - the change would be in the public interest.
  - the level of competition has been demonstrated to be sufficient and sustainable to allow the commission's regulation to be supplanted by competitive forces.
  - The company has reduced its intrastate switched network access rates to its local reciprocal interconnection rate upon grant of the petition.
- Allows the incumbent telecommunications companies to change the prices for its nonbasic services on only one day's notice and to publicly publish price lists rather than file tariffs.

This bill amends section 364.051 of the Florida Statutes.

## II. Present Situation:

Section 364.051, F. S., provides for price regulation. Subsection (5), relating to nonbasic services provides that each company must maintain tariffs with the commission containing the terms, conditions, and rates for each of its nonbasic services, and may set or change, on 15 days' notice, the rate for each of its nonbasic services, except that a price increase for any nonbasic

service category shall not exceed 6 percent within a 12-month period until there is another provider providing local telecommunications service in an exchange area. After another provider offers service in the exchange area, the price for any nonbasic service category may be increase in an amount not to exceed 20 percent within a 12-month period, and the rate shall be presumptively valid.

Subsection (6) provides that when an incumbent local exchange telecommunications company (ILEC) with greater than one million access lines has achieved parity as defined in s. 364.164(5), F.S., the ILEC's basic local telecommunications services may, at the company's election, thereafter be subject to the same regulatory treatment as its non-basic services. The company's retail quality of service requirements will thereafter be no greater than those applicable to competitive local exchange telecommunications companies (CLECs). However, the Florida Public Service Commission (PSC or commission) may, within 120 days of election by the ILEC, find that such relaxation of service quality standards is not warranted in some or all markets served by the ILEC. The commission is authorized to allow some relaxation of quality standards in some or all markets. The PSC may impose no service quality requirements for competitive local exchange telecommunications companies greater than those in effect as of January 1, 2003.

Subsection (7) provides that when an ILEC has met the condition of parity and has elected to have its basic services treated as non-basic, it may, at that time or thereafter, petition the commission for regulatory treatment of its retail services at a level no greater than that currently imposed on CLECs. The ILEC is required to show that granting the petition is in the public interest and it must further reduce its switched network access charges to a level equal to that of its intercarrier compensation rates. The commission must act on the petition within nine months and in its consideration of the petition must determine the extent to which the level of competition faced by the ILEC permits, and will continue to permit, the regulatory treatment of ILEC retail service regulated on the same basis as those of CLECs. The commission is prohibited from increasing the level of regulation on CLEC retail services beyond that which is in effect on the date of the ILEC petition.

### **III. Effect of Proposed Changes:**

Section 1 amends subsections (6), (7), and (8) of s. 364.051, F.S., relating to price regulation. Subsection (5) of s. 364.051, F.S., relates to nonbasic services. The bill allows an ILEC at its option to publicly publish the terms and conditions of rates for each of its nonbasic services rather than file tariffs and to change those terms, conditions, and rates on 1 day's notice.

Subsection (6) is amended to remove the ILEC's ability to elect that its basic local telecommunications service be subject to the same regulatory treatment as its nonbasic services. The bill further requires that a company that wants to reduce its service quality requirements file a request with the commission that its retail service quality requirements be equal those requirements that are imposed on CLECs unless the commission determines otherwise within 120 days.

Subsection (7) is amended to allow an ILEC that has reached parity under s. 364.164(5), F.S., to petition the commission for regulatory treatment of its retail service at a level no greater than the regulatory treatment imposed upon CLECs. Section 364.337, F.S., provides for the regulation of

CLECs requiring certification by the commission and provides for basic local telecommunications standards. Under subsection (5), the commission is given continuing regulatory oversight over the provision of basic local exchange telecommunications service for the purposes of establishing reasonable service quality criteria, assuring resolution of service complaints, and ensuring the fair treatment of all telecommunications providers in the telecommunications marketplace. In addition to showing that granting the petition is in the public interest and reducing its intrastate switched network access rates to its local reciprocal interconnection rate upon grant of the commission, the company must demonstrate that the competition faced by the company is sufficient and sustainable to allow such competition to supplant regulation by the commission. The provision that the commission shall determine the extent to which the level of competition faced by the ILEC permits and will continue to permit the company to have its retail services regulated no differently than the CLECs are being regulated is deleted.

Section 2 provides an effective date upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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