

By the Committees on Government Efficiency Appropriations;
 Communications and Public Utilities; and Senators Fasano and
 Argenziano

593-2309-06

1 A bill to be entitled
 2 An act relating to telecommunications; amending
 3 s. 364.051, F.S., relating to price regulation;
 4 allowing a telecommunications company to
 5 publicly publish price lists for nonbasic
 6 services; providing guidelines for such
 7 publication; allowing 1 day's notice for price
 8 changes to nonbasic services; deleting a
 9 company's option to elect that its basic
 10 services be treated as nonbasic services;
 11 requiring a company to request that the Public
 12 Service Commission lessen its service quality
 13 regulation; providing criteria for granting a
 14 petition to change regulatory treatment of
 15 retail services; amending s. 364.025, F.S.;
 16 providing definitions; providing that a local
 17 exchange telecommunications company obligated
 18 to serve as the carrier of last resort is not
 19 obligated to provide basic local
 20 telecommunications service to customers in a
 21 multitenant business or residential property
 22 under certain circumstances; requiring the
 23 local exchange telecommunications company to
 24 notify the Public Service Commission when it is
 25 relieved of the obligation to provide service;
 26 providing for the local exchange
 27 telecommunications company to request a waiver
 28 of its carrier of last resort obligation from
 29 the commission; providing for carrier of last
 30 resort obligation to apply when specified
 31 conditions cease to exist; providing for effect

1 of the act on the commission's jurisdiction;
2 providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Subsections (5), (6), and (7) of section
7 364.051, Florida Statutes, are amended to read:

8 364.051 Price regulation.--

9 (5) NONBASIC SERVICES.--Price regulation of nonbasic
10 services shall consist of the following:

11 (a) Each company subject to this section shall, at its
12 option, maintain tariffs with the commission or otherwise
13 publicly publish ~~containing~~ the terms, conditions, and rates
14 for each of its nonbasic services, and may set or change, on 1
15 day's ~~15 days'~~ notice, the rate for each of its nonbasic
16 services. For a company electing to publicly publish the
17 terms, conditions, and rates for each of its nonbasic
18 services, the commission may establish guidelines for the
19 publication. The guidelines may not require more information
20 than what is required to be filed with a tariff. The, ~~except~~
21 ~~that~~ a price increase for any nonbasic service category shall
22 not exceed 6 percent within a 12-month period until there is
23 another provider providing local telecommunications service in
24 an exchange area at which time the price for any nonbasic
25 service category may be increased in an amount not to exceed
26 20 percent within a 12-month period, and the rate shall be
27 presumptively valid. However, for purposes of this
28 subsection, the prices of:

29 1. A voice-grade, flat-rate, multi-line business local
30 exchange service, including multiple individual lines, centrex
31 lines, private branch exchange trunks, and any associated

1 | hunting services, that provides dial tone and local usage
2 | necessary to place a call within a local exchange calling
3 | area; and

4 | 2. Telecommunications services provided under contract
5 | service arrangements to the SUNCOM Network, as defined in
6 | chapter 282,

7 |
8 | shall be capped at the rates in effect on July 1, 1995, and
9 | such rates shall not be increased prior to January 1, 2000;
10 | provided, however, that a petition to increase such rates may
11 | be filed pursuant to subsection (4) utilizing the standards
12 | set forth therein. There shall be a flat-rate pricing option
13 | for multi-line business local exchange service, and mandatory
14 | measured service for multi-line business local exchange
15 | service shall not be imposed. Nothing contained in this
16 | section shall prevent the local exchange telecommunications
17 | company from meeting offerings by any competitive provider of
18 | the same, or functionally equivalent, nonbasic services in a
19 | specific geographic market or to a specific customer by
20 | deaveraging the price of any nonbasic service, packaging
21 | nonbasic services together or with basic services, using
22 | volume discounts and term discounts, and offering individual
23 | contracts. However, the local exchange telecommunications
24 | company shall not engage in any anticompetitive act or
25 | practice, nor unreasonably discriminate among similarly
26 | situated customers.

27 | (b) The commission shall have continuing regulatory
28 | oversight of nonbasic services for purposes of ensuring
29 | resolution of service complaints, preventing
30 | cross-subsidization of nonbasic services with revenues from
31 | basic services, and ensuring that all providers are treated

1 fairly in the telecommunications market. The cost standard
2 for determining cross-subsidization is whether the total
3 revenue from a nonbasic service is less than the total
4 long-run incremental cost of the service. Total long-run
5 incremental cost means service-specific volume and
6 nonvolume-sensitive costs.

7 (c) The price charged to a consumer for a nonbasic
8 service shall cover the direct costs of providing the service
9 and shall, to the extent a cost is not included in the direct
10 cost, include as an imputed cost the price charged by the
11 company to competitors for any monopoly component used by a
12 competitor in the provision of its same or functionally
13 equivalent service.

14 (6) After a local exchange telecommunications company
15 that has more than 1 million access lines in service has
16 reduced its intrastate switched network access rates to
17 parity, as defined in s. 364.164(5), the local exchange
18 telecommunications company's ~~basic local telecommunications~~
19 ~~service may, at the company's election, be subject to the same~~
20 ~~regulatory treatment as its nonbasic services. The company's~~
21 retail service quality requirements that are not already equal
22 to the service quality requirements imposed upon the
23 competitive local exchange telecommunications companies shall
24 at the company's request to the commission ~~thereafter~~ be no
25 greater than those imposed upon competitive local exchange
26 telecommunications companies unless the commission, within 120
27 days after the company's request ~~election~~, determines
28 otherwise. In such event, the commission may grant some
29 reductions in service quality requirements in some or all of
30 the company's local calling areas. The commission may not
31 impose retail service quality requirements on competitive

1 local exchange telecommunications companies greater than those
2 existing on January 1, 2003.

3 (7) After ~~If~~ a local exchange telecommunications
4 company that has more than 1 million access lines in service
5 has reduced its intrastate switched network access rates to
6 parity, as defined in s. 364.164(5) elects, pursuant to
7 ~~subsection (6), to subject its retail basic local~~
8 ~~telecommunications services to the same regulatory treatment~~
9 ~~as its nonbasic services~~, the local exchange
10 telecommunications company may petition the commission for
11 regulatory treatment of its retail services at a level no
12 greater than that imposed by the commission upon competitive
13 local exchange telecommunications companies. The local
14 exchange telecommunications company shall:

15 (a) Show that granting the petition is in the public
16 interest;

17 (b) Demonstrate that the competition faced by the
18 company is sufficient and sustainable to allow such
19 competition to supplant regulation by the commission; and

20 (c) ~~(b)~~ Reduce its intrastate switched network access
21 rates to its local reciprocal interconnection rate upon the
22 grant of the petition.

23
24 The commission shall act upon such a petition within 9 months
25 after its filing with the commission. ~~In making its~~
26 ~~determination to either grant or deny the petition, the~~
27 ~~commission shall determine the extent to which the level of~~
28 ~~competition faced by the local exchange telecommunications~~
29 ~~company permits and will continue to permit the company to~~
30 ~~have its retail services regulated no differently than the~~
31 ~~competitive local exchange telecommunications companies are~~

1 ~~then being regulated.~~ The commission may not increase the
2 level of regulation for competitive local exchange
3 telecommunications companies to a level greater than that
4 which exists on the date the local exchange telecommunications
5 company files its petition.

6 Section 2. Subsection (6) is added to section 364.025,
7 Florida Statutes, to read:

8 364.025 Universal service.--

9 (6)(a) For purposes of this subsection:

10 1. "Owner or developer" means the owner or developer
11 of a multitenant business or residential property, any
12 condominium association or homeowners' association thereof, or
13 any other person or entity having ownership in or control over
14 the property.

15 2. "Communications service provider" means any person
16 or entity providing communications services, any person or
17 entity allowing another person or entity to use its
18 communications facilities to provide communications services,
19 or any person or entity securing rights to select
20 communications service providers for a property owner or
21 developer.

22 3. "Communications service" means voice service or
23 voice replacement service through the use of any technology.

24 (b) A local exchange telecommunications company
25 obligated by this section to serve as the carrier of last
26 resort is not obligated to provide basic local
27 telecommunications service to any customers in a multitenant
28 business or residential property, including, but not limited
29 to, apartments, condominiums, subdivisions, office buildings,
30 or office parks, when the owner or developer thereof:

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1 1. Permits only one communications service provider to
2 install its communications service-related facilities or
3 equipment, to the exclusion of the local exchange
4 telecommunications company, during the construction phase of
5 the property;

6 2. Accepts or agrees to accept incentives or rewards
7 from a communications service provider that are contingent
8 upon the provision of any or all communications services by
9 one or more communications service providers to the exclusion
10 of the local exchange telecommunications company;

11 3. Collects from the occupants or residents of the
12 property charges for the provision of any communications
13 service, provided by a communications service provider other
14 than the local exchange telecommunications company, to the
15 occupants or residents in any manner, including, but not
16 limited to, collection through rent, fees, or dues; or

17 4. Enters into an agreement with the communications
18 service provider which grants incentives or rewards to such
19 owner or developer contingent upon restriction or limitation
20 of the local exchange telecommunications company's access to
21 the property.

22 (c) The local exchange telecommunications company
23 relieved of its carrier-of-last-resort obligation to provide
24 basic local telecommunications service to the occupants or
25 residents of a multitenant business or residential property
26 pursuant to paragraph (b) shall notify the commission of that
27 fact in a timely manner.

28 (d) A local exchange telecommunications company that
29 is not automatically relieved of its carrier-of-last-resort
30 obligation pursuant to subparagraphs (b)1.-4. may seek a
31 waiver of its carrier-of-last-resort obligation from the

1 commission for good cause shown based on the facts and
2 circumstances of provision of service to the multitenant
3 business or residential property. Upon petition for such
4 relief, notice shall be given by the company at the same time
5 to the relevant building owner or developer. The commission
6 shall have 90 days to act on the petition. The commission
7 shall implement this paragraph through rulemaking.

8 (e) If all conditions described in subparagraphs
9 (b)1.-4. cease to exist at a property, the owner or developer
10 requests in writing that the local exchange telecommunications
11 company make service available to customers at the property
12 and confirms in writing that all conditions described in
13 subparagraphs (b)1.-4. have ceased to exist at the property
14 and the owner or developer has not arranged and does not
15 intend to arrange with another communications service provider
16 to make communications service available to customers at the
17 property, the carrier-of-last-resort obligation under this
18 section shall again apply to the local exchange
19 telecommunications company at the property; however, the local
20 exchange telecommunications company may require that the owner
21 or developer pay to the company in advance a reasonable fee to
22 recover costs that exceed the costs that would have been
23 incurred to construct or acquire facilities to serve customers
24 at the property initially, and the company shall have a
25 reasonable period of time following the request from the owner
26 or developer to make arrangements for service availability. If
27 any conditions described in subparagraphs (b)1.-4. again exist
28 at the property, paragraph (b) shall again apply.

29 (f) This subsection does not affect the limitations on
30 the jurisdiction of the commission imposed by s. 364.011 or s.
31 364.013.

1 Section 3. This act shall take effect upon becoming a
2 law.

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4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 CS/SB 142

7 This committee substitute:

- 8 1. Allows the Public Service Commission to establish
9 guidelines for what is to be included when a company
10 elects to publicly publish its terms, conditions, and
11 rates for nonbasic services.
- 12 2. Provides for definitions and creates an automatic waiver
13 of the carrier-of-last-resort (COLR) obligation for a
14 local exchange telecommunications company (LEC) under
15 certain circumstances. Notice to the Public Service
16 Commission (PSC or commission) in a timely manner is
17 required for automatic waivers. The bill also allows a
18 LEC to petition for waiver for good cause shown based
19 upon the facts and circumstances. Notice to the building
20 owner or developer is required.
- 21 3. Requires the commission to initiate rulemaking to
22 implement this provision and maintains the commission's
23 limitations of jurisdiction under ss. 364.011 and
24 364.013, F.S.
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