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2 An act relating to communications; amending s.
3 364.051, 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 appropriation; providing an
3 effective date.
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5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Subsections (5), (6), and (7) of section
8 364.051, Florida Statutes, are amended to read:

9 364.051 Price regulation.--

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

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

30 1. A voice-grade, flat-rate, multi-line business local
31 exchange service, including multiple individual lines, centrex

1 lines, private branch exchange trunks, and any associated
2 hunting services, that provides dial tone and local usage
3 necessary to place a call within a local exchange calling
4 area; and

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

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

28 (b) The commission shall have continuing regulatory
29 oversight of nonbasic services for purposes of ensuring
30 resolution of service complaints, preventing
31 cross-subsidization of nonbasic services with revenues from

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

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

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

1 impose retail service quality requirements on competitive
2 local exchange telecommunications companies greater than those
3 existing on January 1, 2003.

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

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

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

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

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

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

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

9 364.025 Universal service.--

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

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

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

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

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

- 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.

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Section 3. The sum of \$800,000 of recurring funds from the General Revenue Fund is appropriated to the Office of Public Counsel for the 2006-2007 fiscal year.

Section 4. This act shall take effect upon becoming a law.