

1 A bill to be entitled
2 An act relating to communications; amending s.
3 364.025, F.S.; providing definitions; providing
4 that a local exchange telecommunications
5 company obligated to serve as the carrier of
6 last resort is not obligated to provide basic
7 local telecommunications service to customers
8 in a multitenant business or residential
9 property under certain circumstances; requiring
10 the local exchange telecommunications company
11 to notify the Public Service Commission when it
12 is relieved of the obligation to provide
13 service; providing for the local exchange
14 telecommunications company to request a waiver
15 of its carrier of last resort obligation from
16 the commission; providing for carrier of last
17 resort obligation to apply when specified
18 conditions cease to exist; providing for effect
19 of the act on the commission's jurisdiction;
20 amending s. 350.0611, F.S.; providing
21 additional authority to the Public Counsel,
22 including the authority to provide legal
23 representation to, and to appear on behalf of,
24 the state and its political subdivisions as
25 consumers of communications services and
26 utility services, to receive, investigate, and
27 take legal action upon complaints involving
28 communications services not within the
29 jurisdiction of the Public Service Commission,
30 to appear before state and federal agencies to
31 enhance terms and conditions of utility and

1 communications services, and to analyze and
2 report on pending legislation relevant to
3 utility and communications services; providing
4 appropriations; providing an effective date.
5

6 Be It Enacted by the Legislature of the State of Florida:
7

8 Section 1. Subsection (6) is added to section 364.025,
9 Florida Statutes, to read:

10 364.025 Universal service.--

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

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

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

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

26 (b) A local exchange telecommunications company
27 obligated by this section to serve as the carrier of last
28 resort is not obligated to provide basic local
29 telecommunications service to any customers in a multitenant
30 business or residential property, including, but not limited
31

1 to, apartments, condominiums, subdivisions, office buildings,
2 or office parks, when the owner or developer thereof:

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

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

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

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

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

30 (d) A local exchange telecommunications company that
31 is not automatically relieved of its carrier-of-last-resort

1 obligation pursuant to subparagraphs (b)1.-4. may seek a
2 waiver of its carrier of last resort obligation from the
3 commission for good cause shown based on the facts and
4 circumstances of provision of service to the multitenant
5 business or residential property. Upon petition for such
6 relief, notice shall be given by the company at the same time
7 to the relevant building owner or developer. The commission
8 shall have 90 days to act on the petition. The commission
9 shall implement this paragraph through rulemaking.

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

31

1 (f) Nothing in this subsection affects the limitations
2 on commission jurisdiction imposed by s. 364.011 or s.
3 364.013.

4 Section 2. Section 350.0611, Florida Statutes, is
5 amended to read:

6 350.0611 Public Counsel; duties and powers.--It shall
7 be the duty of the Public Counsel to provide legal
8 representation for the people of the state in proceedings
9 before the commission and in proceedings before counties
10 pursuant to s. 367.171(8) and to provide legal representation
11 to the State of Florida and its political subdivisions in
12 their capacity as consumers of communications services and
13 utility services. The Public Counsel shall have such powers as
14 are necessary to carry out the duties of his or her office,
15 including, but not limited to, the following specific powers:

16 (1) To recommend to the commission or the counties, by
17 petition, the commencement of any proceeding or action or to
18 appear, in the name of the state or its citizens, in any
19 proceeding or action before the commission or the counties and
20 urge therein any position which he or she deems to be in the
21 public interest, whether consistent or inconsistent with
22 positions previously adopted by the commission or the
23 counties, and utilize therein all forms of discovery available
24 to attorneys in civil actions generally, subject to protective
25 orders of the commission or the counties which shall be
26 reviewable by summary procedure in the circuit courts of this
27 state.†

28 (2) To have access to and use of all files, records,
29 and data of the commission or the counties available to any
30 other attorney representing parties in a proceeding before the
31 commission or the counties.†

1 (3) In any proceeding in which he or she has
2 participated as a party, to seek review of any determination,
3 finding, or order of the commission or the counties, or of any
4 hearing examiner designated by the commission or the counties,
5 in the name of the state or its citizens.†

6 (4) To prepare and issue reports, recommendations, and
7 proposed orders to the commission, the Governor, and the
8 Legislature on any matter or subject within the jurisdiction
9 of the commission, and to make such recommendations as he or
10 she deems appropriate for legislation relative to commission
11 procedures, rules, jurisdiction, personnel, and functions.†
12 ~~and~~

13 (5) To appear before other state agencies, federal
14 agencies, and state and federal courts in connection with
15 matters under the jurisdiction of the commission, in the name
16 of the state or its citizens, and on behalf of the State of
17 Florida and its political subdivisions in their capacity as
18 consumers of communications services and utility services.

19 (6) To receive and investigate complaints that involve
20 communications services, as that term is defined in s.
21 202.11(2), and that are not within the jurisdiction of the
22 Public Service Commission. If the Public Counsel believes the
23 practice forming the basis of a complaint constitutes an
24 unfair or deceptive trade practice or other unlawful practice
25 as defined in s. 501.204, either standing on its own or when
26 considered with other similar, actual practices or potentially
27 systemic practices, the Public Counsel may appear in the name
28 of the residents of the State of Florida to petition the
29 Circuit Court of Leon County, or any other circuit court of
30 the state in which the practice was identified, to enjoin the
31 practice as an unfair and deceptive trade practice, and to

1 petition for a judgment for actual damages for aggrieved
2 consumers, for civil penalties of not more than \$10,000 for
3 each willful unfair and deceptive trade practice or not more
4 than \$15,000 for each willful unfair and deceptive trade
5 practice that meets the criteria of s. 501.2077, and to
6 recover attorney's fees and costs of investigation and court
7 costs. Any moneys collected under this subsection, other than
8 moneys recovered for consumer damages, shall be deposited as
9 received into the General Revenue Fund unallocated.

10 (7) To appear before state and federal agencies,
11 including, but not limited to, the Florida Public Service
12 Commission, the Department of Environmental Protection, the
13 Department of Community Affairs, the Federal Energy Regulatory
14 Commission, the Federal Communications Commission, and the
15 Federal Trade Commission, in the name of the state or its
16 residents, and on behalf of the State of Florida and its
17 political subdivisions in their capacity as consumers of
18 communications services and utility services, for any purpose
19 that in the discretion of the Public Counsel would enhance
20 terms and conditions of utility and communications services
21 afforded to the residents of the State of Florida or to the
22 state or its political subdivisions as consumers or would lead
23 to more affordable rates charged by utility and communications
24 providers. The Public Counsel may also challenge any fee, tax,
25 or other assessment levied by any state or federal authority
26 which the Public Counsel believes will have a substantial
27 detrimental effect on the utility or communications services
28 provided or on the price charged to Florida residents or to
29 the State of Florida as a consumer.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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 July 1, 2006.