

## CHAMBER ACTION

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1 The Commerce Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to telecommunications services; amending  
7 s. 364.025, F.S.; providing definitions; providing that a  
8 local exchange telecommunications company obligated to  
9 serve as the carrier of last resort is not obligated to  
10 provide basic local telecommunications service to  
11 customers in a multitenant business or residential  
12 property under certain circumstances; requiring the local  
13 exchange telecommunications company to notify the Public  
14 Service Commission when it is relieved of the obligation  
15 to provide service; providing for the local exchange  
16 telecommunications company to request a waiver of its  
17 carrier of last resort obligation from the commission;  
18 providing for carrier of last resort obligation to apply  
19 when specified conditions cease to exist; providing for  
20 effect of the act on the commission's jurisdiction;  
21 amending s. 364.051, F.S., relating to price regulation;  
22 allowing certain local exchange telecommunications  
23 companies to publish terms, conditions, and rates for

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24 nonbasic services in lieu of maintaining tariffs with the  
 25 Public Service Commission; revising the notice requirement  
 26 for price changes to nonbasic services; removing a  
 27 provision that allows a company to elect that its basic  
 28 services be subject to the same regulatory treatment as  
 29 its nonbasic services; providing for a request from a  
 30 company to the Public Service Commission to make certain  
 31 reductions in its retail service quality requirements;  
 32 revising criteria for granting a petition to change  
 33 regulatory treatment of retail services; providing  
 34 effective dates.

35  
 36 Be It Enacted by the Legislature of the State of Florida:

37  
 38 Section 1. Subsection (6) is added to section 364.025,  
 39 Florida Statutes, to read:

40 364.025 Universal service.--

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

42 1. "Owner or developer" means the owner or developer of a  
 43 multitenant business or residential property, any condominium  
 44 association or homeowners' association thereof, or any other  
 45 person or entity having ownership in or control over the  
 46 property.

47 2. "Communications service provider" means any person or  
 48 entity providing communications services, any person or entity  
 49 allowing another person or entity to use its communications  
 50 facilities to provide communications services, or any person or

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51 entity securing rights to select communications service  
52 providers for a property owner or developer.

53 3. "Communications service" means voice service or voice  
54 replacement service through the use of any technology.

55 (b) A local exchange telecommunications company obligated  
56 by this section to serve as the carrier of last resort is not  
57 obligated to provide basic local telecommunications service to  
58 any customers in a multitenant business or residential property,  
59 including, but not limited to, apartments, condominiums,  
60 subdivisions, office buildings, or office parks, when the owner  
61 or developer thereof:

62 1. Permits only one communications service provider to  
63 install its communications service-related facilities or  
64 equipment, to the exclusion of the local exchange  
65 telecommunications company, during the construction phase of the  
66 property;

67 2. Accepts or agrees to accept incentives or rewards from  
68 a communications service provider that are contingent upon the  
69 provision of any or all communications services by one or more  
70 communications service providers to the exclusion of the local  
71 exchange telecommunications company;

72 3. Collects from the occupants or residents of the  
73 property charges for the provision of any communications  
74 service, provided by a communications service provider other  
75 than the local exchange telecommunications company, to the  
76 occupants or residents in any manner, including, but not limited  
77 to, collection through rent, fees, or dues; or

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78        4. Enters into an agreement with a communications service  
79 provider that grants incentives or rewards to such owner or  
80 developer contingent upon restriction or limitation of the local  
81 exchange telecommunications company's access to the property.

82        (c) The local exchange telecommunications company relieved  
83 of its carrier of last resort obligation to provide basic local  
84 telecommunications service to the occupants or residents of a  
85 multitenant business or residential property pursuant to  
86 paragraph (b) shall notify the commission of that fact in a  
87 timely manner.

88        (d) A local exchange telecommunications company that is  
89 not automatically relieved of its carrier-of-last-resort  
90 obligation pursuant to subparagraphs (b)1.-4. may seek a waiver  
91 of its carrier of last resort obligation from the commission for  
92 good cause shown based on the facts and circumstances of  
93 provision of service to the multitenant business or residential  
94 property. Upon petition for such relief, notice shall be given  
95 by the company at the same time to the relevant building owner  
96 or developer. The commission shall have 90 days to act on the  
97 petition. The commission shall implement this paragraph through  
98 rulemaking.

99        (e) If all conditions described in subparagraphs (b)1.-4.  
100 cease to exist at a property, the owner or developer requests in  
101 writing that the local exchange telecommunications company make  
102 service available to customers at the property and confirms in  
103 writing that all conditions described in subparagraphs (b)1.-4.  
104 have ceased to exist at the property, and the owner or developer  
105 has not arranged and does not intend to arrange with another

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106 communications service provider to make communications service  
107 available to customers at the property, then the carrier of last  
108 resort obligation under this section shall again apply to the  
109 local exchange telecommunications company at the property;  
110 however, the local exchange telecommunications company may  
111 require that the owner or developer pay to the company in  
112 advance a reasonable fee to recover costs that exceed the costs  
113 that would have been incurred to construct or acquire facilities  
114 to serve customers at the property initially, and the company  
115 shall have a reasonable period of time following the request  
116 from the owner or developer to make arrangements for service  
117 availability. If any conditions described in subparagraphs  
118 (b)1.-4. again exist at the property, then paragraph (b) shall  
119 again apply.

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

122 Section 2. Effective upon this act becoming a law,  
123 subsections (5), (6), and (7) of section 364.051, Florida  
124 Statutes, are amended to read:

125 364.051 Price regulation.--

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

128 (a) Each company subject to this section shall, at its  
129 option, maintain tariffs with the commission or otherwise  
130 publicly publish ~~containing~~ the terms, conditions, and rates for  
131 each of its nonbasic services, and may set or change, on 1 day's  
132 ~~15 days~~ notice, the rate for each of its nonbasic services,  
133 except that a price increase for any nonbasic service category

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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134 shall not exceed 6 percent within a 12-month period until there  
135 is another provider providing local telecommunications service  
136 in an exchange area at which time the price for any nonbasic  
137 service category may be increased in an amount not to exceed 20  
138 percent within a 12-month period, and the rate shall be  
139 presumptively valid. However, for purposes of this subsection,  
140 the prices of:

141 1. A voice-grade, flat-rate, multi-line business local  
142 exchange service, including multiple individual lines, centrex  
143 lines, private branch exchange trunks, and any associated  
144 hunting services, that provides dial tone and local usage  
145 necessary to place a call within a local exchange calling area;  
146 and

147 2. Telecommunications services provided under contract  
148 service arrangements to the SUNCOM Network, as defined in  
149 chapter 282,

150  
151 shall be capped at the rates in effect on July 1, 1995, and such  
152 rates shall not be increased prior to January 1, 2000; provided,  
153 however, that a petition to increase such rates may be filed  
154 pursuant to subsection (4) utilizing the standards set forth  
155 therein. There shall be a flat-rate pricing option for multi-  
156 line business local exchange service, and mandatory measured  
157 service for multi-line business local exchange service shall not  
158 be imposed. Nothing contained in this section shall prevent the  
159 local exchange telecommunications company from meeting offerings  
160 by any competitive provider of the same, or functionally  
161 equivalent, nonbasic services in a specific geographic market or

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162 to a specific customer by deaveraging the price of any nonbasic  
163 service, packaging nonbasic services together or with basic  
164 services, using volume discounts and term discounts, and  
165 offering individual contracts. However, the local exchange  
166 telecommunications company shall not engage in any  
167 anticompetitive act or practice, nor unreasonably discriminate  
168 among similarly situated customers.

169 (b) The commission shall have continuing regulatory  
170 oversight of nonbasic services for purposes of ensuring  
171 resolution of service complaints, preventing cross-subsidization  
172 of nonbasic services with revenues from basic services, and  
173 ensuring that all providers are treated fairly in the  
174 telecommunications market. The cost standard for determining  
175 cross-subsidization is whether the total revenue from a nonbasic  
176 service is less than the total long-run incremental cost of the  
177 service. Total long-run incremental cost means service-specific  
178 volume and nonvolume-sensitive costs.

179 (c) The price charged to a consumer for a nonbasic service  
180 shall cover the direct costs of providing the service and shall,  
181 to the extent a cost is not included in the direct cost, include  
182 as an imputed cost the price charged by the company to  
183 competitors for any monopoly component used by a competitor in  
184 the provision of its same or functionally equivalent service.

185 (6) After a local exchange telecommunications company that  
186 has more than 1 million access lines in service has reduced its  
187 intrastate switched network access rates to parity, as defined  
188 in s. 364.164(5), the local exchange telecommunications  
189 company's ~~basic local telecommunications service may, at the~~

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190 ~~company's election, be subject to the same regulatory treatment~~  
191 ~~as its nonbasic services. The company's~~ retail service quality  
192 requirements that are not already equal to the service quality  
193 requirements imposed upon the competitive local exchange  
194 telecommunications companies shall at the company's request to  
195 the commission ~~thereafter~~ be no greater than those imposed upon  
196 competitive local exchange telecommunications companies unless  
197 the commission, within 120 days after the company's request  
198 ~~election~~, determines otherwise. In such event, the commission  
199 may grant some reductions in service quality requirements in  
200 some or all of the company's local calling areas. The commission  
201 may not impose retail service quality requirements on  
202 competitive local exchange telecommunications companies greater  
203 than those existing on January 1, 2003.

204 (7) After ~~If~~ a local exchange telecommunications company  
205 that has more than 1 million access lines in service has reduced  
206 its intrastate switched network access rates to parity, as  
207 defined in s. 364.164(5) ~~elects, pursuant to subsection (6), to~~  
208 ~~subject its retail basic local telecommunications services to~~  
209 ~~the same regulatory treatment as its nonbasic services, the~~  
210 local exchange telecommunications company may petition the  
211 commission for regulatory treatment of its retail services at a  
212 level no greater than that imposed by the commission upon  
213 competitive local exchange telecommunications companies. The  
214 local exchange telecommunications company shall:

215 (a) Show that granting the petition is in the public  
216 interest;



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217           (b) Demonstrate that the competition faced by the company  
218 is sufficient and sustainable to allow such competition to  
219 supplant regulation by the commission; and

220           (c)~~(b)~~ Reduce its intrastate switched network access rates  
221 to its local reciprocal interconnection rate upon the grant of  
222 the petition.

223

224 The commission shall act upon such a petition within 9 months  
225 after its filing with the commission. ~~In making its~~  
226 ~~determination to either grant or deny the petition, the~~  
227 ~~commission shall determine the extent to which the level of~~  
228 ~~competition faced by the local exchange telecommunications~~  
229 ~~company permits and will continue to permit the company to have~~  
230 ~~its retail services regulated no differently than the~~  
231 ~~competitive local exchange telecommunications companies are then~~  
232 ~~being regulated.~~ The commission may not increase the level of  
233 regulation for competitive local exchange telecommunications  
234 companies to a level greater than that which exists on the date  
235 the local exchange telecommunications company files its  
236 petition.

237           Section 3. Except as otherwise expressly provided in this  
238 act, this act shall take effect July 1, 2006.