

1 A bill to be entitled

2 An act relating to telecommunications services; amending
3 s. 364.025, F.S.; providing definitions; providing that a
4 local exchange telecommunications company obligated to
5 serve as the carrier of last resort is not obligated to
6 provide basic local telecommunications service to
7 customers in a multitenant business or residential
8 property under certain circumstances; requiring the local
9 exchange telecommunications company to notify the Public
10 Service Commission when it is relieved of the obligation
11 to provide service; providing for the local exchange
12 telecommunications company to request a waiver of its
13 carrier of last resort obligation from the commission;
14 providing for carrier of last resort obligation to apply
15 when specified conditions cease to exist; providing for
16 effect of the act on the commission's jurisdiction;
17 amending s. 364.051, F.S., relating to price regulation;
18 allowing certain local exchange telecommunications
19 companies to publish terms, conditions, and rates for
20 nonbasic services in lieu of maintaining tariffs with the
21 Public Service Commission; providing for guidelines for
22 the publication; revising the notice requirement for price
23 changes to nonbasic services; removing a provision that
24 allows a company to elect that its basic services be
25 subject to the same regulatory treatment as its nonbasic
26 services; providing for a request from a company to the
27 Public Service Commission to make certain reductions in

28 its retail service quality requirements; revising criteria
 29 for granting a petition to change regulatory treatment of
 30 retail services; providing an effective date.

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 32 Be It Enacted by the Legislature of the State of Florida:

33
 34 Section 1. Subsection (6) is added to section 364.025,
 35 Florida Statutes, to read:

36 364.025 Universal service.--

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

38 1. "Owner or developer" means the owner or developer of a
 39 multitenant business or residential property, any condominium
 40 association or homeowners' association thereof, or any other
 41 person or entity having ownership in or control over the
 42 property.

43 2. "Communications service provider" means any person or
 44 entity providing communications services, any person or entity
 45 allowing another person or entity to use its communications
 46 facilities to provide communications services, or any person or
 47 entity securing rights to select communications service
 48 providers for a property owner or developer.

49 3. "Communications service" means voice service or voice
 50 replacement service through the use of any technology.

51 (b) A local exchange telecommunications company obligated
 52 by this section to serve as the carrier of last resort is not
 53 obligated to provide basic local telecommunications service to
 54 any customers in a multitenant business or residential property,

55 including, but not limited to, apartments, condominiums,
56 subdivisions, office buildings, or office parks, when the owner
57 or developer thereof:

58 1. Permits only one communications service provider to
59 install its communications service-related facilities or
60 equipment, to the exclusion of the local exchange
61 telecommunications company, during the construction phase of the
62 property;

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

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

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

78 (c) The local exchange telecommunications company relieved
79 of its carrier of last resort obligation to provide basic local
80 telecommunications service to the occupants or residents of a
81 multitenant business or residential property pursuant to

82 paragraph (b) shall notify the commission of that fact in a
83 timely manner.

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

95 (e) If all conditions described in subparagraphs (b)1.-4.
96 cease to exist at a property, the owner or developer requests in
97 writing that the local exchange telecommunications company make
98 service available to customers at the property and confirms in
99 writing that all conditions described in subparagraphs (b)1.-4.
100 have ceased to exist at the property, and the owner or developer
101 has not arranged and does not intend to arrange with another
102 communications service provider to make communications service
103 available to customers at the property, then the carrier of last
104 resort obligation under this section shall again apply to the
105 local exchange telecommunications company at the property;
106 however, the local exchange telecommunications company may
107 require that the owner or developer pay to the company in
108 advance a reasonable fee to recover costs that exceed the costs

109 that would have been incurred to construct or acquire facilities
 110 to serve customers at the property initially, and the company
 111 shall have a reasonable period of time following the request
 112 from the owner or developer to make arrangements for service
 113 availability. If any conditions described in subparagraphs
 114 (b)1.-4. again exist at the property, then paragraph (b) shall
 115 again apply.

116 (f) This subsection does not affect the limitations on the
 117 jurisdiction of the commission imposed by s. 364.011 or s.
 118 364.013.

119 Section 2. Subsections (5), (6), and (7) of section
 120 364.051, Florida Statutes, are amended to read:

121 364.051 Price regulation.--

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

124 (a) Each company subject to this section shall, at its
 125 option, maintain tariffs with the commission or otherwise
 126 publicly publish ~~containing~~ the terms, conditions, and rates for
 127 each of its nonbasic services, and may set or change, on 1 day's
 128 ~~15 days~~ notice, the rate for each of its nonbasic services. For
 129 a company electing to publicly publish the terms, conditions,
 130 and rates for each of its nonbasic services, the commission may
 131 establish guidelines for the publication. The guidelines may not
 132 require more information than what is required to be filed with
 133 a tariff. The, ~~except that~~ a price increase for any nonbasic
 134 service category shall not exceed 6 percent within a 12-month
 135 period until there is another provider providing local

136 telecommunications service in an exchange area at which time the
137 price for any nonbasic service category may be increased in an
138 amount not to exceed 20 percent within a 12-month period, and
139 the rate shall be presumptively valid. However, for purposes of
140 this subsection, 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,

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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
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~~

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;

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. This act shall take effect upon becoming a law.