

## Senate Bill No. 1748

An act relating to the Florida Statutes; repealing or deleting various statutory provisions that have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded; repealing s. 363.01, F.S., relating to rates charged by telegraph and cable companies; repealing s. 364.025(4)(d), F.S., relating to a report on the amount of support necessary to provide residential basic local telecommunications service to low-income customers; amending s. 364.051, F.S.; deleting provisions relating to a report on the need to extend price caps for basic local telecommunications service; correcting a cross-reference; amending s. 364.052, F.S.; deleting obsolete deadlines relating to regulation of small local exchange telecommunications companies; repealing s. 364.057(3), F.S., relating to a limited period of authorization for two-way, intra-state, residential communications services for testing marketing strategies or technical feasibility; amending s. 364.162, F.S.; deleting obsolete provisions relating to certain applicants to become an alternative local exchange telecommunications company; amending s. 364.16, F.S.; conforming a cross-reference; repealing s. 364.245(1), F.S., relating to findings with respect to the use of telecommunications services for unlawful purposes; repealing s. 365.15, F.S., relating to emergency calls over party lines; amending s. 365.171, F.S.; deleting findings relating to the statewide emergency telephone number "911" plan; amending s. 427.704, F.S.; deleting an obsolete deadline for designation of the administrator of the telecommunications access system; amending s. 427.705, F.S.; deleting an obsolete deadline for such administrator to assume responsibility for distribution of specialized telecommunications devices; providing an effective date.

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

Section 1. Section 363.01, Florida Statutes, is repealed.

Section 2. Paragraph (d) of subsection (4) of section 364.025, Florida Statutes, is repealed.

Section 3. Subsections (3), (4), (5), and (6) of section 364.051, Florida Statutes, are amended to read:

364.051 Price regulation.—

~~(3)(a) By December 1, 1997, the commission shall report and recommend on an exchange by exchange basis to the Legislature as to whether there is a need to extend the caps provided for in paragraphs (2)(a) and (b) for basic local telecommunications service prices, or whether there is some other means, excluding rate of return regulation, to ensure reasonable and affordable rates for basic local telecommunications service.~~

~~(b) In making the determination as to whether price caps are needed to ensure reasonable and affordable rates for basic local telecommunications service provided by a local exchange telecommunications company with less than 3 million basic local telecommunications service access lines in service on July 1, 1995, the commission shall consider whether the level of competition in the area justifies the elimination of price caps.~~

~~(c) The Legislature shall review the commission's report submitted pursuant to paragraph (a) and determine whether there is a continuing need for basic local telecommunications service prices to remain capped. Unless the Legislature acts to the contrary, the caps shall remain in place in any exchange in which the Legislature determines that the level of competition does not justify the elimination of price caps for an additional 2 years or until the commission during that 2-year period determines that the level of competition in the exchange justifies the elimination of price caps.~~

~~(3)(4) In the event that it is determined that the level of competition justifies the elimination of price caps in an exchange served by a local exchange telecommunications company with less than 3 million basic local telecommunications service access lines in service, or at the end of 5 years for any local exchange telecommunications company, the local exchange telecommunications company may thereafter on 30 days' notice adjust its basic service prices once in any 12-month period in an amount not to exceed the change in inflation less 1 percent. Inflation shall be measured by the changes in the Gross Domestic Product Fixed 1987 Weights Price Index, or successor fixed weight price index, published in the Survey of Current Business or a publication, by the United States Department of Commerce. In the event any local exchange telecommunications company, after January 1, 2001, believes that the level of competition justifies the elimination of any form of price regulation the company may petition the Legislature.~~

~~(4)(5) Notwithstanding the provisions of subsection (2), any local exchange telecommunications company that believes circumstances have changed substantially to justify any increase in the rates for basic local telecommunications services may petition the commission for a rate increase, but the commission shall grant such petition only after an opportunity for a hearing and a compelling showing of changed circumstances. The costs and expenses of any government program or project required in part II shall not be recovered under this subsection unless such costs and expenses are incurred in the absence of a bid and subject to carrier-of-last-resort obligations as provided for in part II. The commission shall act upon any such petition within 120 days of its filing.~~

~~(5)(6) NONBASIC SERVICES.—Price regulation of nonbasic services shall consist of the following:~~

~~(a) Each company subject to this section shall maintain tariffs with the commission containing the terms, conditions, and rates for each of its nonbasic services, and may set or change, on 15 days' notice, the rate for each of its nonbasic services, except that a price increase for any nonbasic service category shall not exceed 6 percent within a 12-month period until there is another provider providing local telecommunications service in an exchange~~

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

1. A voice-grade, flat-rate, multi-line business local exchange service, including multiple individual lines, centrex lines, private branch exchange trunks, and any associated hunting services, that provides dial tone and local usage necessary to place a call within a local exchange calling area; and
2. Telecommunications services provided under contract service arrangements to the SUNCOM Network, as defined in chapter 282,

shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to January 1, 2000; provided, however, that a petition to increase such rates may be filed pursuant to subsection (4) (5) utilizing the standards set forth therein. There shall be a flat-rate pricing option for multi-line business local exchange service, and mandatory measured service for multi-line business local exchange service shall not be imposed. Nothing contained in this section shall prevent the local exchange telecommunications company from meeting offerings by any competitive provider of the same, or functionally equivalent, nonbasic services in a specific geographic market or to a specific customer by deaveraging the price of any nonbasic service, packaging nonbasic services together or with basic services, using volume discounts and term discounts, and offering individual contracts. However, the local exchange telecommunications company shall not engage in any anticompetitive act or practice, nor unreasonably discriminate among similarly situated customers.

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

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

Section 4. Subsection (2) of section 364.052, Florida Statutes, is amended to read:

364.052 Regulatory methods for small local exchange telecommunications companies.—

(2) A small local exchange telecommunications company shall remain under rate base, rate of return regulation until the company elects to become

subject to s. 364.051, or January 1, 2001, whichever occurs first. ~~After July 1, 1996,~~ A company subject to this section, electing to be regulated pursuant to s. 364.051, will have any overearnings attributable to a period prior to the date on which the company makes the election subject to refund or other disposition by the commission. Small local exchange telecommunications companies not electing the price regulation provided for under s. 364.051 shall also be regulated pursuant to ss. 364.03, 364.035(1) and (2), 364.05, and 364.055 and other provisions necessary for rate base, rate of return regulation. If a small local exchange telecommunications company has not elected to be regulated under s. 364.051, by January 1, 2001, the company shall remain under rate base, rate of return regulation until such time as a certificated alternative local exchange company provides basic local telecommunications service in the company's territory. At such time, the small local exchange telecommunications company shall be subject to s. 364.051.

(a) ~~By July 1, 1996,~~ The commission shall establish, by rule, ranges of basic factors for lives and salvage values to be used in developing depreciation rates for companies subject to this section. Companies shall have the option of using basic factors within the established ranges or of filing depreciation studies.

(b) ~~By January 1, 1996,~~ The commission shall adopt, by rule, streamlined procedures for regulating companies subject to this section. These procedures shall minimize the burdens of regulation with regard to audits, investigations, service standards, cost studies, reports, and other matters, and the commission shall establish, by rule, only those procedures that are cost-justified and are in the public interest so that universal service may be promoted. Upon petition filed in this rulemaking proceeding, the commission shall review and may approve any regulations unique to the specific circumstances of a company subject to this section.

Section 5. Subsection (3) of section 364.057, Florida Statutes, is repealed.

Section 6. Section 364.162, Florida Statutes, is amended to read:

364.162 Negotiated prices for interconnection and for the resale of services and facilities; commission rate setting.—

(1) ~~Any party who, on July 1, 1995, has an application on file with the commission to become~~ An alternative local exchange telecommunications company shall have 60 days from the date it is certificated until August 31, 1995, to negotiate with a local exchange telecommunications company mutually acceptable prices, terms, and conditions of interconnection and for the resale of services and facilities.

(2) If a negotiated price is not established after 60 days by August 31, 1995, either party may petition the commission to establish nondiscriminatory rates, terms, and conditions of interconnection and for the resale of services and facilities. The commission shall have 120 days to make a determination after proceeding as required by subsection (2). Whether set by negotiation or by the commission, interconnection and resale prices, rates, terms, and conditions shall be filed with the commission before their effective date. The commission shall have the authority to arbitrate any dispute

regarding interpretation of interconnection or resale prices and terms and conditions.

(2)(3) In the event that the commission receives a single petition relating to either interconnection or resale of services and facilities, it shall vote, within 120 days following such filing, to set nondiscriminatory rates, terms, and conditions, except that the rates shall not be below cost. If the commission receives one or more petitions relating to both interconnection and resale of services and facilities, the commission shall conduct separate proceedings for each and, within 120 days following such filing, make two separate determinations setting such nondiscriminatory rates, terms, and conditions, except that the rates shall not be below cost.

(3)(4) In setting the local interconnection charge, the commission shall determine that the charge is sufficient to cover the cost of furnishing interconnection.

(4)(5) The commission shall ensure that, if the rate it sets for a service or facility to be resold provides a discount below the tariff rate for such service or facility which appropriately reflects the local exchange telecommunications company's avoidance of the expense and cost of marketing such service or facility to retail customers, such rate must not be below cost. The commission shall also ensure assure that this rate is not set so high that it would serve as a barrier to competition.

~~(6) An alternative local exchange telecommunications company that did not have an application for certification on file with the commission on July 1, 1995, shall have 60 days from the date it is certificated to negotiate with a local exchange telecommunications company mutually acceptable prices, terms, and conditions of interconnection and for the resale of services and facilities. If a negotiated price is not established after 60 days, either party may petition the commission to establish nondiscriminatory rates, terms, and conditions of interconnection and for the resale of services and facilities. The commission shall have 120 days to make a determination after proceeding as required by subsection (3).~~

~~(7) Prior to July 1, 1999, the parties may negotiate a new local interconnection charge to be effective not earlier than July 1, 1999. If the parties cannot satisfactorily negotiate a new local interconnection charge, either party may petition the commission to resolve the matter. In the event any party, prior to July 1, 1999, believes that circumstances have changed substantially to warrant a different price for local interconnection, that party may petition the commission for a price change, but the commission shall grant such petition only after an opportunity for a hearing and a compelling showing of changed circumstances, including that the provider's customer population includes as many residential as business customers. The commission shall act on any such petition within 120 days.~~

Section 7. Subsection (2) of section 364.16, Florida Statutes, is amended to read:

364.16 Connection of lines and transfers; local interconnection; telephone number portability.—

(2) Each alternative local exchange telecommunications company shall provide access to, and interconnection with, its telecommunications services to any other provider of local exchange telecommunications services requesting such access and interconnection at nondiscriminatory prices, terms, and conditions. If the parties are unable to negotiate mutually acceptable prices, terms, and conditions after 60 days, either party may petition the commission and the commission shall have 120 days to make a determination after proceeding as required by s. 364.162(2)(6) pertaining to interconnection services.

Section 8. Subsection (1) of section 364.245, Florida Statutes, is repealed.

Section 9. Section 365.15, Florida Statutes, is repealed.

Section 10. Subsection (2) of section 365.171, Florida Statutes, is amended to read:

365.171 Emergency telephone number "911."—

(2) ~~LEGISLATIVE INTENT.—The Legislature hereby finds and declares that it is in the public interest to shorten the time required for a citizen to request and receive emergency aid. There currently exist thousands of different emergency phone numbers throughout the state. Provision for a single, primary three-digit emergency number through which emergency services can be quickly and efficiently obtained would provide a significant contribution to law enforcement and other public service efforts by making it easier to notify public safety personnel. Such a simplified means of procuring emergency services will result in the saving of life, a reduction in the destruction of property, and quicker apprehension of criminals. It is the intent of the Legislature to establish and implement a cohesive statewide emergency telephone number "911" plan which will provide citizens with rapid direct access to public safety agencies by dialing the telephone number "911" with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.~~

Section 11. Subsection (2) of section 427.704, Florida Statutes, is amended to read:

427.704 Powers and duties of the commission.—

(2) ~~By July 1, 1991,~~ The commission shall designate as the administrator of the telecommunications access system a corporation not for profit organized for such purposes and incorporated pursuant to chapter 617. For the purposes of this part, the commission may order telecommunications companies to form such a corporation not for profit.

Section 12. Subsection (7) of section 427.705, Florida Statutes, is amended to read:

427.705 Administration of the telecommunications access system.—

(7) ~~By September 1, 1991,~~ The administrator shall assume responsibility for distribution of specialized telecommunications devices.

Section 13. This act shall take effect upon becoming a law.

Approved by the Governor June 20, 2000.

Filed in Office Secretary of State June 20, 2000.