

CHAPTER 2010-38

House Bill No. 1377

An act relating to telecommunications companies; repealing ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18, F.S., relating to rates, tolls, contracts, charges, rules, regulations, performance of service, and maintenance of telecommunications facilities; fixing rates by the Public Service Commission; consideration of directory advertising revenues when establishing rates; changing rates, tolls, rentals, contracts, or charges; procedures for interim rates; commission to compel by order or rule the adjustment of rates, charges, tolls, rules, or regulations or changes to practices or service or the installation of equipment or facilities; forms prescribed by the commission; and inspection by the commission of accounts and records; amending s. 364.051, F.S.; deleting a schedule for implementation of price regulation; amending ss. 364.025, 364.052, 364.063, 364.337, 364.385, and 364.507, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Sections 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18, Florida Statutes, are repealed.

Section 2. Subsection (2) of section 364.025, Florida Statutes, is amended to read:

364.025 Universal service.—

(2) The Legislature finds that each telecommunications company should contribute its fair share to the support of the universal service objectives and carrier-of-last-resort obligations. For a transitional period not to exceed January 1, 2009, the interim mechanism for maintaining universal service objectives and funding carrier-of-last-resort obligations shall be established by the commission, pending the implementation of a permanent mechanism. The interim mechanism shall be applied in a manner that ensures that each competitive local exchange telecommunications company contributes its fair share to the support of universal service and carrier-of-last-resort obligations. The interim mechanism applied to each competitive local exchange telecommunications company shall reflect a fair share of the local exchange telecommunications company's recovery of investments made in fulfilling its carrier-of-last-resort obligations, and the maintenance of universal service objectives. The commission shall ensure that the interim mechanism does not impede the development of residential consumer choice or create an unreasonable barrier to competition. In reaching its determination, the commission shall not inquire into or consider any factor that is inconsistent with s. 364.051(1)(e). The costs and expenses of any government program or project required in part II of this chapter shall not be recovered under this section.

Section 3. Subsection (1) of section 364.051, Florida Statutes, is amended to read:

364.051 Price regulation.—

(1) APPLICATION TO LOCAL EXCHANGE TELECOMMUNICATIONS COMPANIES SCHEDULE.—Notwithstanding any other provisions of this chapter, all the following local exchange telecommunications companies are shall become subject to the price regulation described in this section on the following dates:

(a) ~~For a local exchange telecommunications company with 100,000 or more access lines in service as of July 1, 1995, such company may file with the commission a notice of election to be under price regulation effective January 1, 1996, or when a competitive local exchange telecommunications company is certificated to provide local exchange telecommunications services in its service territory, whichever is later.~~

(b) ~~Effective on the date of filing its election with the commission, but no sooner than January 1, 1996, any local exchange telecommunications company with fewer than 100,000 access lines in service on July 1, 1995, that elects pursuant to s. 364.052 to become subject to this section.~~

(c) ~~Each company subject to this section is exempt from rate base, rate of return regulation, and the requirements of s. ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, and 364.19.~~

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. 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 competitive 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) 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) 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. Section 364.063, Florida Statutes, is amended to read:

364.063 Rate adjustment orders.—Any order issued by the Florida Public Service Commission adjusting general increases or reductions of the rates of a telecommunications company shall be reduced to writing, including any dissenting or concurring opinions, within 20 days after the official vote of the commission. Within such 20-day period, the commission shall also mail a copy of the order to the clerk of the circuit court of each county in which customers are served who are affected by the rate adjustment, which copy shall be kept on file and made available to the public. The commission shall notify all parties of record in the proceeding of the date of such mailing. Such an order shall not be considered rendered for purposes of appeal, rehearing, or judicial review until the order is signed and dated by the commission’s designee. This provision shall not delay the effective date of the order. ~~Such an order shall be considered rendered on the date of the official vote for the purposes of s. 364.05(5).~~

Section 6. Subsections (1), (2), and (4) of section 364.337, Florida Statutes, are amended to read:

364.337 Competitive local exchange telecommunications companies; intrastate interexchange telecommunications services; certification.—

(1) Upon this act becoming a law, a party may file an application for a certificate as a competitive local exchange telecommunications company before January 1, 1996, and the commission shall conduct its review of the application and take all actions necessary to process the application. However, an application shall become effective no sooner than January 1, 1996. The commission shall grant a certificate of authority to provide competitive local exchange service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served. A competitive local exchange telecommunications company may not offer basic local telecommunications services within the territory served by a company subject to s. 364.052 prior to January 1, 2001, unless the small local exchange

telecommunications company ~~is~~ is ~~elected to be~~ regulated under s. 364.051 or provides cable television programming services directly or as video dial tone applications authorized under 47 U.S.C. s. 214, except as provided for in compliance with part II. It is the intent of the Legislature that the commission act expeditiously to grant certificates of authority under this section and that the grant of certificates not be affected by the application of any criteria other than that specifically enumerated in this subsection.

(2) Rules adopted by the commission governing the provision of competitive local exchange telecommunications service shall be consistent with s. 364.01. The basic local telecommunications service provided by a competitive local exchange telecommunications company must include access to operator services, “911” services, and relay services for the hearing impaired. A competitive local exchange telecommunications company’s “911” service shall be provided at a level equivalent to that provided by the local exchange telecommunications company serving the same area. There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed. A certificated competitive local exchange telecommunications company may petition the commission for a waiver of some or all of the requirements of this chapter, except ss. 364.16, 364.336, and subsections (1) and (5). The commission may grant such petition if determined to be in the public interest. Competitive local exchange telecommunications companies are not subject to the requirements of ~~ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, 364.33, and 364.3381.~~

(4) Rules adopted by the commission governing the provision of intrastate interexchange telecommunications service must be consistent with s. 364.01. A certificated intrastate interexchange telecommunications company may petition the commission for a waiver for some or all of the requirements of this chapter, except s. 364.16, s. 364.335(3), or subsection (5). The commission may grant such petition if determined to be in the public interest. Intrastate interexchange telecommunications companies are not subject to the requirements of ~~s. ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, 364.18, and 364.3381.~~

Section 7. Subsection (2) of section 364.385, Florida Statutes, is amended to read:

364.385 Saving clauses.—

(2) All applications for extended area service, routes, or extended calling service pending before the commission on March 1, 1995, shall be governed by the law as it existed prior to July 1, 1995. Upon the approval of the application, the extended area service, routes, or extended calling service shall be considered basic services and shall be regulated as provided in s. 364.051 ~~for a company that has elected price regulation.~~ Proceedings including judicial review pending on July 1, 1995, shall be governed by the law as it existed prior to the date on which this section becomes a law. No new proceedings governed by the law as it existed prior to July 1, 1995, shall

be initiated after July 1, 1995. Any administrative adjudicatory proceeding which has not progressed to the stage of a hearing by July 1, 1995, may, with the consent of all parties and the commission, be conducted in accordance with the law as it existed prior to January 1, 1996.

Section 8. Subsection (2) of section 364.507, Florida Statutes, is amended to read:

364.507 Legislative intent.—

(2) It is the intent of the Legislature that all local exchange telecommunications companies, ~~including those with less than 100,000 access lines in service which do not elect to be regulated under price regulation pursuant to s. 364.051,~~ should be required to provide advanced telecommunications services to eligible facilities in the absence of a competitive bid to provide such services pursuant to s. 364.510(3). This obligation arises from the privileges granted such local exchange telecommunications companies under part I of this chapter.

Section 9. This act shall take effect July 1, 2010.

Approved by the Governor May 7, 2010.

Filed in Office Secretary of State May 7, 2010.