



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: January 28, 1999
TO: Participants in 980000B-SP Access by Telecommunications Companies to Customers in Multitenant Environments
FROM: Dan Hoppe, Director, Division of Research and Regulatory Review *DH*
Catherine Bedell, Senior Attorney, Division of Legal Services *CB*
RE: Draft Legislation

Pursuant to the request made by the Commission at the January 26, 1999, Internal Affairs, please find attached two versions of draft legislation that are to be discussed at the Internal Affairs this afternoon.

DMH:CB:tf/m-mte128
Attachments

7417.

1 Section 1. Subsections (6), ~~(7)~~, and (10) of section 364.02, Florida Statutes, is created to read:

2 364.02 Definitions.--As used in this chapter:

3 (6) "Exclusionary contract" means an agreement between a landlord and a
4 telecommunications company in which the telecommunications company is given exclusive
5 access to the landlord's property for the purpose of providing telecommunications service.

6 (8) "Marketing agreement" means an agreement between a landlord or property manager
7 and a telecommunications company in which the telecommunications company provides some
8 form of remuneration to the landlord or property manager for each tenant subscribing to the
9 service of the telecommunications company.

10 (10) "Multitenant environment" includes all types of structures and tenancies with
11 multiple tenants except:

12 (a) condominiums, as defined in Chapter 718, Florida Statutes;

13 (b) cooperatives, as defined in Chapter 719, Florida Statutes;

14 (c) homeowners' associations, as defined in Chapter 617, Florida Statutes;

15 (d) those short-term tenancies served by call aggregators as defined by commission rule;

16 and

17 (e) all tenancies of 13 months or less in duration.

18
19 Section 2. Section 364.340, Florida Statutes, is created to read:

20 364.340 Multitenant environments: reasonable and nondiscriminatory access by
21 telecommunications companies to tenants in multitenant environments; exclusionary contracts
22 prohibited; disclosure of marketing agreements required; review by commission.--

23 (1) The standards for access by telecommunications companies to tenants in multitenant
24 environments are:

25 (a) Access shall be granted on a reasonable, nondiscriminatory, and technologically
26 neutral basis.

27 (b) Tenants, landlords, and telecommunications providers shall make every reasonable
28 effort to negotiate terms and conditions for access;

29 (c) A landlord may charge a telecommunications company or tenant the reasonable and
30 nondiscriminatory costs of installation, easement, or other costs of providing service to the
31 tenant;

32 (d) The tenant shall be responsible for obtaining all necessary easements;

1 ~~(e) A landlord may impose conditions reasonably necessary for the safety, security, and~~
2 ~~aesthetics of the property;~~

3 (f) A landlord may not deny access to space or conduit previously dedicated to public
4 service if that space or conduit is sufficient to accommodate the facilities needed for access;

5 (g) A landlord may deny access where the space or conduit required for installation is not
6 reasonably sufficient to accommodate the request or where the installation would unreasonably
7 interfere with the aesthetics of the building; and

8 (h) A landlord shall not charge an access fee for the privilege of providing
9 telecommunications service to a tenant in a multitenant environment.

10 (i) Nothing in this section shall abrogate the obligations of the carrier of last resort
11 described in s. 364.025.

12 (2) Exclusionary contracts between telecommunications companies and landlords for the
13 provisions of telecommunications services to multitenant environments are prohibited.

14 (3) Landlords shall disclose to potential tenants the existence of a marketing agreement.

15 (4) The commission shall have exclusive jurisdiction for the purpose of resolving
16 disputes arising between telecommunications companies, tenants, and landlords concerning the
17 provision of telecommunications services in multitenant environments.

18 (a) The threshold for initiating an action for access shall be:

19 1. After a tenant initiates a request to a telecommunications company for service, the
20 telecommunications company and the tenant shall convey the request for service to the landlord;

21 2. If a landlord is unresponsive to a request for access, a written request shall be
22 submitted to the landlord;

23 3. If the landlord fails to timely respond, if access is denied, or if reasonable and
24 nondiscriminatory terms for access cannot be agreed upon, the telecommunications company and
25 the tenant may file a petition with the commission for review.

26 (b) In resolving disputes related to access, the commission shall apply the standards
27 described in paragraph (1) of this section.

28 (5) The commission shall promulgate rules for the purpose of implementing the
29 provisions of this section.

30

1 Section 1. Subsections (6), (8), and (10) of section 364.02, Florida Statutes, is created to read:

2 364.02 Definitions.--As used in this chapter:

3 (6) "Exclusionary contract" means an agreement between a landlord and a
4 telecommunications company in which the telecommunications company is given exclusive
5 access to the landlord's property for the purpose of providing telecommunications service.

6 (8) "Marketing agreement" means an agreement between a landlord or property manager
7 and a telecommunications company in which the telecommunications company provides some
8 form of remuneration to the landlord or property manager for each tenant subscribing to the
9 service of the telecommunications company.

10 (10) "Multitenant environment" includes all types of structures and tenancies with
11 multiple tenants except:

12 (a) condominiums, as defined in Chapter 718, Florida Statutes;

13 (b) cooperatives, as defined in Chapter 719, Florida Statutes;

14 (c) homeowners' associations, as defined in Chapter 617, Florida Statutes;

15 (d) those short-term tenancies served by call aggregators as defined by commission rule;

16 and

17 (e) all tenancies of 13 months or less in duration.

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19 Section 2. Section 364.340, Florida Statutes, is created to read:

20 364.340 Multitenant environments; reasonable and nondiscriminatory access by
21 telecommunications companies to tenants in multitenant environments; exclusionary contracts
22 prohibited; disclosure of marketing agreements required; review by commission.--

23 (1) The standards for access by telecommunications companies to tenants in multitenant
24 environments are:

25 (a) Access shall be granted on a reasonable, nondiscriminatory, and technologically
26 neutral basis.

27 (b) Tenants, landlords, and telecommunications providers shall make every reasonable
28 effort to negotiate terms and conditions for access:

29 (c) A landlord may charge a telecommunications company or tenant the reasonable and
30 nondiscriminatory costs of installation, easement, or other costs of providing service to the
31 tenant;

1 (d) The tenant shall be responsible for obtaining all necessary easements;

2 (e) A landlord may impose conditions reasonably necessary for the safety, security, and
3 aesthetics of the property;

4 (f) A landlord may not deny access to space or conduit previously dedicated to public
5 service if that space or conduit is sufficient to accommodate the facilities needed for access;

6 (g) A landlord may deny access where the space or conduit required for installation is not
7 reasonably sufficient to accommodate the request or where the installation would unreasonably
8 interfere with the aesthetics of the building; and

9 (h) A landlord shall not charge an access fee for the privilege of providing
10 telecommunications service to a tenant in a multitenant environment.

11 (i) Once access is granted to a telecommunications company to provide service in a
12 multitenant environment, that telecommunications company may not refuse any reasonable
13 request to serve another tenant.

14 (j) Nothing in this section shall abrogate the obligations of the carrier of last resort
15 described in s. 364.025.

16 (2) Exclusionary contracts between telecommunications companies and landlords for the
17 provisions of telecommunications services to multitenant environments are prohibited.

18 (3) Landlords shall disclose to potential tenants the existence of a marketing agreement.

19 (4) The commission shall have exclusive jurisdiction for the purpose of resolving
20 disputes arising between telecommunications companies, tenants, and landlords concerning the
21 provision of telecommunications services in multitenant environments.

22 (a) The threshold for initiating an action for access shall be:

23 1. After a tenant initiates a request to a telecommunications company for service, the
24 telecommunications company and the tenant shall convey the request for service to the landlord;

25 2. If a landlord is unresponsive to a request for access, a written request shall be
26 submitted to the landlord;

27 3. If the landlord fails to timely respond, if access is denied, or if reasonable and
28 nondiscriminatory terms for access cannot be agreed upon, the telecommunications company and
29 the tenant may file a petition with the commission for review.

30 4. Where a telecommunications company has obtained access to one or more tenants in a
31 multitenant environment and that telecommunications company has refused to provide service to

1 another tenant, the landlord and tenant may file a petition with the commission.

2 (b) In resolving disputes related to access, the commission shall apply the standards
3 described in paragraph (1) of this section.

4 (5) The commission shall promulgate rules for the purpose of implementing the
5 provisions of this section.