

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: February 19, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Compliance (Pruitt, King)
Office of the General Counsel (Tan)

RE: Docket No. 080680-TL – Notice of election of price regulation by Frontier Communications of the South, LLC.

AGENDA: 03/03/09 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RCP\WP\080680.RCM.DOC

Case Background

On November 17, 2008, Frontier Communications of the South, LLC (Frontier), an incumbent local exchange telecommunications company (ILEC), filed its notice of election to be subject to price regulation under Section 364.051, Florida Statutes, effective January 1, 2009. Section 364.052(3), Florida Statutes, states, “A [small local exchange telecommunications] company subject to this section may at any time after January 1, 1996, elect to be regulated pursuant to s. 364.051.”

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.051 and 364.052, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission acknowledge Frontier's election to become subject to price regulation effective January 1, 2009?

Recommendation: Yes. With Frontier's election of price regulation effective January 1, 2009, its basic local telecommunications service rates are subject to Section 364.051(3), Florida Statutes, and its nonbasic services rates are subject to Section 364.051(5), Florida Statutes. (Tan, Pruitt)

Staff Analysis: Frontier filed notification on November 17, 2008, of its election of price regulation pursuant to Section 364.052, Florida Statutes, effective January 1, 2009. Staff notes that Frontier is the last ILEC to elect price regulation. In doing so, the company became subject to the provisions of Section 364.051, Florida Statutes. The relevant parts of subsections (1), (2), (3) and (5) are noted as follows:

364.051 Price regulation.—

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

* * *

(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.

* * *

(2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.—Price regulation of basic local telecommunications service shall consist of the following:

* * *

(c) 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.

(3) If 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 revenues 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.

* * *

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

(a) Each company subject to this section shall, at its option, maintain tariffs with the commission or otherwise publicly publish the terms, conditions, and rates for each of its nonbasic services, and may set or change, on 1 day's notice, the rate for each of its nonbasic services. For a company electing to publicly publish the terms, conditions, and rates for each of its nonbasic services, the commission may establish guidelines for the publication. The guidelines may not require more information than what is required to be filed with a tariff. The 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.

* * *

Frontier is the last ILEC to elect price regulation, which exempts the company from rate base, rate of return regulation and various statutes as specified in Section 364.051(c), Florida Statutes,¹ and Commission rules.² Staff notes that the election of price regulation does not exempt a company from quality of service requirements. In light of the provisions of Chapter 364, Florida Statutes, staff recommends that the Commission acknowledge Frontier's election of price regulation effective January 1, 2009.

¹ 364.051(c), Florida Statute: Each company subject to this section shall be exempt from rate base, rate of return regulation and the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18.

² In another docket staff plans to recommend repeal of those rules that applied only to rate of return regulated ILECs.

Docket No. 080680-TL
Date: February 19, 2009

Issue 2: Should this docket be closed?

Recommendation: Yes. With the Commission's approval of staff's recommendation in Issue 1, this docket should be closed if no person whose substantial interests are affected files a protest within 21 days of the issuance of this Order. (Tan)

Staff Analysis: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.