

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice of election of price regulation by Frontier Communications of the South, LLC.	DOCKET NO. 080680-TL ORDER NO. PSC-09-0136-PAA-TL ISSUED: March 5, 2009
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The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACKNOWLEDGING NOTICE OF ELECTION OF PRICE REGULATION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. 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."

We are vested with jurisdiction over this matter pursuant to Sections 364.051 and 364.052, Florida Statutes.

II. 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. Frontier is the last ILEC to elect price regulation. In doing so, the company became subject to the provisions of

DOCUMENT NUMBER-DATE

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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 Election of price regulation does not exempt a company from quality of service requirements.

III. Decision

In light of the provisions of Chapter 364, Florida Statutes, we find it appropriate to acknowledge Frontier's election of price regulation effective January 1, 2009. 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.

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 our staff plans to recommend repeal of those rules that applied only to rate of return regulated ILECs.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Frontier Communications of the South, LLC's election of price regulation effective January 1, 2009, is acknowledged. It is further

ORDERED that Frontier Communications of the South, LLC's 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. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 5th day of March, 2009.



ANN COLE
Commission Clerk

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 26, 2009.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.