

Bill No. CS for SB 2296

Amendment No. \_\_\_\_

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Lee moved the following amendment:

**Senate Amendment (with title amendment)**

On page 9, after line 31,

insert:

Section 9. Section 364.025, Florida Statutes, 1998 Supplement, is amended to read:

364.025 Universal service.--

(1) For the purposes of this section, the term "universal service" means an evolving level of access to telecommunications services that, taking into account advances in technologies, services, and market demand for essential services, the commission determines should be provided at just, reasonable, and affordable rates to customers, including those in rural, economically disadvantaged, and high-cost areas. It is the intent of the Legislature that universal service objectives be maintained after the local exchange market is opened to competitively provided services. It is also the intent of the Legislature that during this transition period the ubiquitous nature of the local exchange

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1 telecommunications companies be used to satisfy these  
2 objectives. For a period of 6 ~~4~~ years after January 1, 1996,  
3 each local exchange telecommunications company shall be  
4 required to furnish basic local exchange telecommunications  
5 service within a reasonable time period to any person  
6 requesting such service within the company's service  
7 territory.

8 (2) The Legislature finds that each telecommunications  
9 company should contribute its fair share to the support of the  
10 universal service objectives and carrier-of-last-resort  
11 obligations. For a transitional period not to exceed January  
12 1, 2002 ~~2000~~, an interim mechanism for maintaining universal  
13 service objectives and funding carrier-of-last-resort  
14 obligations shall be established by the commission, pending  
15 the implementation of a permanent mechanism. The interim  
16 mechanism shall be applied in a manner that ensures that each  
17 alternative local exchange telecommunications company  
18 contributes its fair share to the support of universal service  
19 and carrier-of-last-resort obligations. The interim mechanism  
20 applied to each alternative local exchange telecommunications  
21 company shall reflect a fair share of the local exchange  
22 telecommunications company's recovery of investments made in  
23 fulfilling its carrier-of-last-resort obligations, and the  
24 maintenance of universal service objectives. The commission  
25 shall ensure that the interim mechanism does not impede the  
26 development of residential consumer choice or create an  
27 unreasonable barrier to competition. In reaching its  
28 determination, the commission shall not inquire into or  
29 consider any factor that is inconsistent with s.  
30 364.051(1)(c). The costs and expenses of any government  
31 program or project required in part II of this chapter shall

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1 not be recovered under this section.

2 (3) In the event any party, prior to January 1, 2002  
3 ~~2000~~, believes that circumstances have changed substantially  
4 to warrant a change in the interim mechanism, that party may  
5 petition the commission for a change, but the commission shall  
6 grant such petition only after an opportunity for a hearing  
7 and a compelling showing of changed circumstances, including  
8 that the provider's customer population includes as many  
9 residential as business customers. The commission shall act  
10 on any such petition within 120 days.

11 (4)(a) Prior to January 1, 2002 ~~the expiration of this~~  
12 ~~4-year period~~, the Legislature shall establish a permanent  
13 universal service mechanism upon the effective date of which  
14 any interim recovery mechanism for universal service  
15 objectives or carrier-of-last-resort obligations imposed on  
16 alternative local exchange telecommunications companies shall  
17 terminate.

18 (b) To assist the Legislature in establishing a  
19 permanent universal service mechanism, the commission, by  
20 February 15, 1999, shall determine and report to the President  
21 of the Senate and the Speaker of the House of Representatives  
22 the total forward-looking cost, based upon the most recent  
23 commercially available technology and equipment and generally  
24 accepted design and placement principles, of providing basic  
25 local telecommunications service on a basis no greater than a  
26 wire center basis using a cost proxy model to be selected by  
27 the commission after notice and opportunity for hearing.

28 (c) In determining the cost of providing basic local  
29 telecommunications service for small local exchange  
30 telecommunications companies, which serve less than 100,000  
31 access lines, the commission shall not be required to use the

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1 cost proxy model selected pursuant to paragraph (b) until a  
2 mechanism is implemented by the Federal Government for small  
3 companies, but no sooner than January 1, 2001. The commission  
4 shall calculate a small local exchange telecommunications  
5 company's cost of providing basic local telecommunications  
6 services based on one of the following options:

- 7           1. A different proxy model; or
- 8           2. A fully distributed allocation of embedded costs,  
9 identifying high-cost areas within the local exchange area the  
10 company serves and including all embedded investments and  
11 expenses incurred by the company in the provision of universal  
12 service. Such calculations may be made using fully distributed  
13 costs consistent with 47 C.F.R. ss. 32, 36, and 64. The  
14 geographic basis for the calculations shall be no smaller than  
15 a census block group.

16           (d) The commission, by February 15, 1999, shall  
17 determine and report to the President of the Senate and the  
18 Speaker of the House of Representatives the amount of support  
19 necessary to provide residential basic local  
20 telecommunications service to low-income customers. For  
21 purposes of this section, low-income customers are customers  
22 who qualify for Lifeline service as defined in s. 364.10(2).

23           (5) After January 1, 2002 ~~2000~~, an alternative local  
24 exchange telecommunications company may petition the  
25 commission to become the universal service provider and  
26 carrier of last resort in areas requested to be served by that  
27 alternative local exchange telecommunications company. Upon  
28 petition of an alternative local exchange telecommunications  
29 company, the commission shall have 120 days to vote on  
30 granting in whole or in part or denying the petition of the  
31 alternative local exchange company. The commission may

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1 establish the alternative local exchange telecommunications  
2 company as the universal service provider and carrier of last  
3 resort, provided that the commission first determines that the  
4 alternative local exchange telecommunications company will  
5 provide high-quality, reliable service. In the order  
6 establishing the alternative local exchange telecommunications  
7 company as the universal service provider and carrier of last  
8 resort, the commission shall set the period of time in which  
9 such company must meet those objectives and obligations and  
10 shall set up any mechanism needed to aid such company in  
11 carrying out these duties.

12 Section 10. Subsection (5) of section 364.052, Florida  
13 Statutes, is amended to read:

14 364.052 Regulatory methods for small local exchange  
15 telecommunications companies.--

16 (5) Any company subject to this section shall continue  
17 to function as the universal service provider and carrier of  
18 last resort in the territory in which such company was  
19 certificated to provide service on July 1, 1995; provided,  
20 however, that after January 1, 2002 ~~2001~~, such company shall  
21 only be required to act as the universal service provider and  
22 carrier of last resort if the commission finds that it is  
23 economically feasible for such company to remain the universal  
24 service provider and carrier of last resort. If the commission  
25 finds that it is not economically feasible for a small local  
26 exchange telecommunications company to remain the carrier of  
27 last resort, the commission shall establish a funding  
28 mechanism to permit such company to fulfill its obligations as  
29 the carrier of last resort.

30 Section 11. Subsections (2), (4), and (6) of section  
31 364.051, Florida Statutes, 1998 Supplement, are amended to

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1 read:

2 364.051 Price regulation.--

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

6 (a) Effective January 1, 1996, the rates for basic  
7 local telecommunications service of each company subject to  
8 this section shall be capped at the rates in effect on July 1,  
9 1995, and such rates shall not be increased prior to the  
10 effective date of a permanent universal service funding  
11 mechanism established pursuant to s. 364.025 January 1, 2000.  
12 ~~However, the basic local telecommunications service rates of a~~  
13 ~~local exchange telecommunications company with more than 3~~  
14 ~~million basic local telecommunications service access lines in~~  
15 ~~service on July 1, 1995, shall not be increased prior to~~  
16 ~~January 1, 2001.~~

17 (b) Upon the date of filing its election with the  
18 commission, the rates for basic local telecommunications  
19 service of a company that elects to become subject to this  
20 section shall be capped at the rates in effect on that date  
21 and shall remain capped as stated in paragraph (a).

22 (c) There shall be a flat-rate pricing option for  
23 basic local telecommunications services, and mandatory  
24 measured service for basic local telecommunications services  
25 shall not be imposed.

26 (4) In the event that it is determined that the level  
27 of competition justifies the elimination of price caps in an  
28 exchange served by a local exchange telecommunications company  
29 with less than 3 million basic local telecommunications  
30 service access lines in service, or after the effective date  
31 of a permanent universal service funding mechanism established

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1 pursuant to s. 364.025 ~~at the end of 5 years~~ for any local  
2 exchange telecommunications company, the local exchange  
3 telecommunications company may thereafter on 30 days' notice  
4 adjust its basic service prices once in any 12-month period in  
5 an amount not to exceed the change in inflation less 1  
6 percent. Inflation shall be measured by the changes in the  
7 Gross Domestic Product Fixed 1987 Weights Price Index, or  
8 successor fixed weight price index, published in the Survey of  
9 Current Business or a publication, by the United States  
10 Department of Commerce. In the event any local exchange  
11 telecommunications company, after January 1, 2001, believes  
12 that the level of competition justifies the elimination of any  
13 form of price regulation the company may petition the  
14 Legislature.

15 (6) NONBASIC SERVICES.--Price regulation of nonbasic  
16 services shall consist of the following:

17 (a) Each company subject to this section shall  
18 maintain tariffs with the commission containing the terms,  
19 conditions, and rates for each of its nonbasic services, and  
20 may set or change, on 15 days' notice, the rate for each of  
21 its nonbasic services, except that a price increase for any  
22 nonbasic service category shall not exceed 6 percent within a  
23 12-month period until there is another provider providing  
24 local telecommunications service in an exchange area at which  
25 time the price for any nonbasic service category may be  
26 increased in an amount not to exceed 20 percent within a  
27 12-month period, and the rate shall be presumptively valid.  
28 However, for purposes of this subsection, the prices of:

29 1. A voice-grade, flat-rate, multi-line business local  
30 exchange service, including multiple individual lines, centrex  
31 lines, private branch exchange trunks, and any associated

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1 hunting services, that provides dial tone and local usage  
2 necessary to place a call within a local exchange calling  
3 area; and

4           2. Telecommunications services provided under contract  
5 service arrangements to the SUNCOM Network, as defined in  
6 chapter 282,

7  
8 shall be capped at the rates in effect on July 1, 1995, and  
9 such rates shall not be increased prior to the effective date  
10 of a permanent universal service funding mechanism established  
11 pursuant to s. 364.025 January 1, 2000; provided, however,  
12 that a petition to increase such rates may be filed pursuant  
13 to subsection (5) utilizing the standards set forth therein.  
14 There shall be a flat-rate pricing option for multi-line  
15 business local exchange service, and mandatory measured  
16 service for multi-line business local exchange service shall  
17 not be imposed. Nothing contained in this section shall  
18 prevent the local exchange telecommunications company from  
19 meeting offerings by any competitive provider of the same, or  
20 functionally equivalent, nonbasic services in a specific  
21 geographic market or to a specific customer by deaveraging the  
22 price of any nonbasic service, packaging nonbasic services  
23 together or with basic services, using volume discounts and  
24 term discounts, and offering individual contracts. However,  
25 the local exchange telecommunications company shall not engage  
26 in any anticompetitive act or practice, nor unreasonably  
27 discriminate among similarly situated customers.

28           (b) The commission shall have continuing regulatory  
29 oversight of nonbasic services for purposes of ensuring  
30 resolution of service complaints, preventing  
31 cross-subsidization of nonbasic services with revenues from



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1 basic services, and ensuring that all providers are treated  
 2 fairly in the telecommunications market. The cost standard  
 3 for determining cross-subsidization is whether the total  
 4 revenue from a nonbasic service is less than the total  
 5 long-run incremental cost of the service. Total long-run  
 6 incremental cost means service-specific volume and  
 7 nonvolume-sensitive costs.

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

15

16 (Redesignate subsequent sections.)

17

18

19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 On page 2, line 1, after the semicolon,

22

23 insert:

24 amending s. 364.025, F.S.; extending the  
 25 interim mechanism for maintaining universal  
 26 service objectives and funding  
 27 carrier-of-last-resort obligations until a  
 28 specified date; amending s. 364.052, F.S.;  
 29 extending carrier-of-last-resort obligations  
 30 for small local exchange telecommunications  
 31 companies until a specified date; amending s.

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1           364.051, F.S.; extending price caps on certain  
2           telecommunications services;  
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