

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 385 of the Regular Session

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

*As Engrossed: S3/7/07*

**A Bill**

SENATE BILL 780

5 By: Senator Horn  
6 *By: Representatives Wells, Maloch, Burris*  
7

**For An Act To Be Entitled**

10 AN ACT TO PHASE OUT THE ARKANSAS UNIVERSAL  
11 SERVICE FUND; TO ESTABLISH THE ARKANSAS HIGH COST  
12 FUND; TO PROVIDE FOR THE ADMINISTRATIVE  
13 TRANSITION FROM THE ARKANSAS UNIVERSAL SERVICE  
14 FUND TO THE ARKANSAS HIGH COST FUND; AND FOR  
15 OTHER PURPOSES.

**Subtitle**

18 TO PHASE OUT THE ARKANSAS UNIVERSAL  
19 SERVICE FUND; TO ESTABLISH THE ARKANSAS  
20 HIGH COST FUND; AND TO PROVIDE FOR THE  
21 ADMINISTRATIVE TRANSITION FROM THE  
22 ARKANSAS UNIVERSAL SERVICE FUND TO THE  
23 ARKANSAS HIGH COST FUND.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
27

28 SECTION 1. Legislative findings.

29 The General Assembly finds that:

30 (1) The development of an administratively streamlined universal  
31 service fund based upon high cost support is important public policy;

32 (2) It is administratively efficient to use financial data  
33 submitted by eligible telecommunications companies to federal agencies, made  
34 under penalty of law, and when appropriate, cost proxies, for the high-cost  
35 support mechanism, to be called the "Arkansas High Cost Fund", thereby



1 eliminating the need for extensive financial review and the high  
2 administrative costs created by such reviews;

3 (3) A five-year transition from the Arkansas Universal Service  
4 Fund to the Arkansas High Cost Fund is important public policy due to the  
5 shift from a revenue replacement fund based upon current changes to a high-  
6 cost fund using financial data that is two (2) or more years old;

7 (4) Due to the complex nature and ever-changing administration  
8 of telecommunications at the federal level, potential changes in how access  
9 charges are collected could disrupt support for eligible telecommunications  
10 companies serving rural areas;

11 (5) Eligible telecommunications company members of the AICCLP  
12 are more adversely affected by sudden changes in regulation, access charges,  
13 and statutory changes; and

14  
15 SECTION 2. Arkansas Code § 23-17-403, concerning the definition of  
16 "total customer access base", is amended to read as follows:

17 (42)(A) "Total customer access base" means the total of all ~~ILEG~~  
18 eligible telecommunications carrier customer access lines within Arkansas of  
19 an entity that directly or indirectly owns or controls, is owned or  
20 controlled by, or is under common ownership or control with another entity.

21 (B) For the purposes of subdivision (42)(A) of this section,  
22 "own" means to own an equity interest or the equivalent thereof of more than  
23 ten percent (10%); and

24  
25 SECTION 3. Arkansas Code § 23-17-403, concerning definitions, is  
26 amended to add additional subdivisions to read as follows:

27 (44) "Telecommunications Providers Rules" or "TPRs" means those  
28 rules applicable to telecommunications providers that have been adopted by  
29 the commission;

30 (45) "Universal Service Administration Corporation" or "USAC"  
31 means a corporation under that name, or its successor, that performs various  
32 administrative and procedural duties prescribed to it by the FCC and others;

33 (46) "National Exchange Carrier Association, Inc.," or "NECA"  
34 means a corporation by that name, or its successor, that performs various  
35 administrative functions and procedural duties prescribed to it by the FCC  
36 and others;

1           (47) "Study area" means a geographic area designated by the FCC  
2 and used by NECA or USAC for calculation of cost per loop within the  
3 geographic area's boundaries for federal high cost loop support;

4           (48) "Annual unseparated unlimited loop requirement" means a  
5 financial algorithm calculated annually by NECA and USAC that includes all  
6 the loop investment, expenses, and other loop costs of providing service  
7 within the study area of an eligible telecommunications carrier;

8           (49) "2007 Revenue Base" means the gross revenue an ETC was  
9 eligible to receive from the AUSF during the first six months of 2007  
10 annualized without reduction for an overpayment that occurred in 2006;

11           (50) "Average Schedule Company" means a company that uses a  
12 proxy established from a formula using the average costs of a group of  
13 companies rather than using the company's specific costs in reporting to  
14 NECA;

15           (51) "Wireline ETC" means a wireline eligible telecommunications  
16 carrier that is a local exchange carrier;

17           (52) "Wireless ETC" means a wireless eligible telecommunications  
18 carrier that is a commercial mobile service provider;

19           (53) "Local Switching Support" means funding to assist high cost  
20 companies in recovering the costs of switching intrastate calls; and

21           (54) "Wire Center" means the location of one (1) or more local  
22 switching systems, a point at which end user's loops within a defined  
23 geographic area converge.

24  
25       SECTION 4. Arkansas Code § 23-17-404 is amended to read as follows:

26       23-17-404. Preservation and promotion of universal service.

27       (a)(1) ~~The Arkansas Universal Service Fund (AUSF)~~ Arkansas High Cost  
28 Fund (AHCF) is established by this section in order to promote and assure the  
29 availability of universal service at rates that are reasonable and affordable  
30 and to provide for reasonably comparable services and rates between rural and  
31 urban areas.

32       (2) The ~~AUSF~~ AHCF will provide funding to an eligible  
33 telecommunications ~~carriers~~ carrier that ~~provide~~ provides basic local  
34 exchange services ~~over~~ using its own facilities ~~owned by the eligible~~  
35 ~~telecommunications carrier~~ or a combination of its own facilities and another  
36 carrier's facilities by the eligible telecommunications carrier within its

1 study area.

2 (3) The ~~AUSE~~ AHCF shall be designed to provide predictable,  
3 sufficient, and sustainable funding to eligible telecommunications carriers  
4 serving rural or high-cost areas of the state.

5 (4) The AHCF shall also be used to accelerate and promote the  
6 incremental extension and expansion of broadband services and other advanced  
7 services in rural or high-cost areas of the state beyond what would normally  
8 occur and support the Lifeline program to eligible low-income customers.

9 (b)(1) The ~~AUSE~~ AHCF is to provide a mechanism to restructure the  
10 present system of telecommunication service rates in the state as provided  
11 herein, and all telecommunications providers, except as prohibited by federal  
12 law, shall be charged for the direct and indirect value inherent in the  
13 obtaining and preserving of reasonable and comparable access to  
14 telecommunications services in the rural or high-cost areas. The value and  
15 utility of access to and interconnection with the public switched network  
16 will be lessened if the rural or high-cost areas do not have comparable  
17 access and subscribership.

18 (2)(A) This ~~AUSE~~ AHCF charge for all telecommunications  
19 providers shall be proportionate to each provider's Arkansas intrastate  
20 retail telecommunications service revenues.

21 (B) Because customers of the telecommunications providers  
22 that would pay the ~~AUSE~~ AHCF charge receive the benefits of a universal  
23 network, the telecommunications providers may surcharge their customers to  
24 recover the ~~AUSE~~ AHCF charges paid by the telecommunications provider.  
25 Therefore, the ~~AUSE~~ AHCF charge is not a tax and is not affected by state  
26 laws governing taxation.

27 (C) For the purpose of assessing mobile telecommunications  
28 services, the AHCF administrator shall continue to assess only Arkansas  
29 intrastate retail telecommunications service revenues and only to the extent  
30 such revenues may be considered located in the State of Arkansas in  
31 accordance with the Mobile Telecommunications Sourcing Act, Pub. L. No. 106-  
32 252.

33 (c)(1)(A) The Arkansas Public Service Commission shall delegate to a  
34 trustee, the "AHCF administrator", the administration, collection, and  
35 distribution of the ~~AUSE~~ AHCF within forty-five (45) days of the effective  
36 date of the adoption of rules and procedures to implement the AHCF ~~in~~

1 ~~accordance with the rules and procedures established by the commission and~~  
2 ~~consistent with this subchapter.~~

3 (B) In evaluating responses to request for proposals for  
4 the AHCF administrator's position, the commission shall consider and give  
5 material weight to the applicant's:

6 (i) Familiarity with Arkansas ETCs, Arkansas access  
7 rates, AICCLP history and procedures, and AUSF history and procedures; and

8 (ii) Personal availability to provide information  
9 and assistance to the General Assembly, telecommunications providers, and  
10 members of the public.

11 (2)(A) The AHCF administrator shall enforce and implement all  
12 rules and directives governing the funding, collection, and eligibility for  
13 the AUSF AHCF.

14 ~~(B) Within sixty (60) days after receipt of a request for~~  
15 ~~AUSF funds, the administrator shall~~ As soon as practicable after the AHCF  
16 administrator is designated, he or she shall:

17 (i) Promptly notify all Arkansas ETCs of the  
18 availability of AHCF support and accept requests for AHCF support from  
19 Arkansas ETCs; and

20 (ii) Shall review and determine the accuracy and  
21 appropriateness of ~~the~~ each request and advise the entity requesting the  
22 funds of his or her determination, including:

23 (a) Eligibility for support;

24 (b) The unreduced amount of support available  
25 during the phase-in period;

26 (c) The uncapped amount of support available;

27 and

28 (d) The actual support available after  
29 implementation of all phase-in reductions and fund cap limitations.

30 (C) The affected parties shall have thirty (30) days to  
31 request reconsideration by the commission of the AHCF administrator's  
32 determination, and the commission after notice and hearing, if requested,  
33 shall issue its opinion on the reconsideration within thirty (30) days after  
34 the request of reconsideration unless continued by the commission.

35 (D) Persons aggrieved by the commission's opinion shall  
36 have the right to appeal the opinion in accordance with law.

1           (d)(1)(a) The ~~AUSF~~ AHCF administrator periodically shall establish and  
2 notify each telecommunications provider of the ~~AUSF~~ AHCF charge levels  
3 required to be paid by the telecommunications provider. In order to fund the  
4 AHCF at the required level, as soon as administratively reasonable after the  
5 effective date of this act of 2007, the AUSF administrator shall adjust the  
6 surcharge to ensure it will adequately fund the projected monthly payments  
7 required under this Section 2 of this act, have sufficient reserves, and have  
8 the surplus necessary to fund the transition period required by this section.  
9 The AUSF administrator shall continue to charge and collect the AUSF  
10 surcharge until the AHCF administrator is designated by the commission and  
11 the AHCF administrator has adequate time to undertake charging and collecting  
12 the surcharge as the AHCF charge.

13                       (b) The AUSF administrator shall continue to administer  
14 the AUSF until the AUSF has paid all administrative fees and completed its  
15 duties. The AUSF administrator shall cooperate with the AHCF administrator in  
16 transferring information and documentation necessary for the AHCF  
17 administrator to bill and collect charges from responsible parties and to  
18 transfer information about all accounts receivable due the AUSF administrator  
19 from responsible parties.

20                       (c) All accounts payable to the AUSF administrator, all  
21 funds held by the AUSF administrator, and assets of the AUSF administrator  
22 shall be transferred to the AHCF administrator, when the AHCF administrator  
23 requests, to allow the AHCF administrator to carry out his or her function.  
24 When the AUSF administrator has completed his or her duties under the AUSF  
25 and completed his or her duties concerning transfer of information and other  
26 assistance, the AUSF administrator shall terminate all further activity in  
27 regard to the AUSF and the AHCF. If a transfer of funds is made to the AHCF  
28 administrator before the finalization of all duties by the AUSF  
29 administrator, the AUSF administrator may retain funds necessary for the AUSF  
30 administrator to fully pay all expected administrative costs of finalizing  
31 his or her duties and thereafter, shall transfer any remaining funds to the  
32 AHCF administrator.

33                       (2) Any telecommunications provider that without just cause  
34 fails to pay the ~~AUSF~~ AHCF charge that is due and payable pursuant to this  
35 section after notice and opportunity for hearing shall have its authority to  
36 do business as a telecommunications provider in the State of Arkansas revoked

1 by the commission.

2 (3) The AUSE AHCF charge shall not be subject to any state or  
3 local tax or franchise fees.

4 ~~(4) The commission is authorized to increase the AUSE charge by~~  
5 ~~those amounts necessary to recover the cost of administration of the AUSE.~~

6 (e) After reasonable notice and hearing, the commission shall  
7 establish rules and procedures necessary to implement the AUSE AHCF. The  
8 commission shall implement the AUSE AHCF and make AUSE AHCF funds available  
9 to eligible telecommunications carriers beginning the first calendar month  
10 after one hundred fifty (150) days after the effective date of this act no  
11 later than ninety (90) days following the later of February 4, 1997, or the  
12 effective date of a Federal Communications Commission order pursuant to 47  
13 U.S.C. § 254 that approves, establishes, or modifies interstate universal  
14 service funding. Prior to the implementation and availability of funds from  
15 the AUSE, the commission shall not require any local exchange carrier to  
16 reduce rates for intrastate switched access services or require any local  
17 exchange carrier to reduce its net revenue received from the Arkansas  
18 IntraLATA Toll Pool (AITP). In establishing and implementing the AUSE AHCF,  
19 the commission shall adhere to the following instructions and guidelines:

20 (1)(A) AUSE AHCF funding shall be provided directly to eligible  
21 telecommunications carriers.

22 (B) For an ETC to receive funds from the AHCF, the ETC  
23 shall agree to be subject to and comply with all telecommunications provider  
24 rules adopted by the commission, unless the commission finds the technology  
25 used by the ETC to provide telecommunications service makes a rule  
26 inapplicable. In any event, each ETC shall be subject to all TPRs concerning  
27 application for service, refusing service, deposits, notices prior to  
28 disconnect, late payment penalties, elderly and handicapped protection,  
29 medical need for utility services, delayed payment agreements, and extended  
30 due dates.

31 ~~(2)(A) After reasonable notice and hearing, the commission may~~  
32 ~~revise the list of universal services identified in § 23-17-403 that may be~~  
33 ~~supported by the AUSE to establish and maintain end-user rates for universal~~  
34 ~~services that are reasonably comparable between urban and rural areas or to~~  
35 ~~reflect changes in the type and quality of telecommunications services~~  
36 ~~considered essential by the public, as evidenced, for example, by those~~

1 ~~telecommunication services that are purchased and used by a majority of~~  
2 ~~single-line urban customers. The commission shall provide a report to the~~  
3 ~~Legislative Council by October 31 of the year prior to a regular session of~~  
4 ~~the General Assembly detailing any recommended changes to the universal~~  
5 ~~service list of requirements that are to be supported by the AHCF. This list~~  
6 ~~may be approved by the General Assembly, and if approved, the AHCF support to~~  
7 ~~ETCs may be adjusted, due to the approved changes, to reflect an increase or~~  
8 ~~decrease in the size of the AHCF by increasing or decreasing the overall~~  
9 ~~financial cap on the AHCF to recover the cost of additions or revisions to~~  
10 ~~the universal service list concurrent with any such revisions to the list of~~  
11 ~~universal services identified in § 23-17-403.~~

12 (B) ~~The commission shall determine and approve AUSE~~  
13 ~~funding to eligible telecommunications carriers to recover the cost of~~  
14 ~~additions or revisions to the universal service list concurrent with any such~~  
15 ~~revisions to the list of universal services identified in § 23-17-403; In~~  
16 ~~considering revisions to the universal service list, the commission shall~~  
17 ~~consider the need for the addition or removal of a service to the list in~~  
18 ~~order to maintain end-user rates for universal services that are reasonably~~  
19 ~~comparable between urban and rural areas or to reflect changes in the type~~  
20 ~~and quality of telecommunications services considered essential by the~~  
21 ~~public, as evidenced, for example, by those telecommunication services that~~  
22 ~~are purchased and used by a majority of single-line urban customers.~~

23 (C) ~~A rate case proceeding or earning investigation or~~  
24 ~~analysis shall not be required or conducted in connection with the recovery~~  
25 ~~of the cost of additions or revisions or in connection with the~~  
26 ~~administration of the AHCF;~~

27 (3) ~~If the commission establishes or utilizes a minimum or~~  
28 ~~threshold universal service rate, threshold rate, for the purpose of~~  
29 ~~determining the amount of AUSE that an eligible telecommunications carrier~~  
30 ~~may receive, the commission shall adhere to the following requirements:~~

31 (A) ~~A rate case proceeding or earnings investigation or~~  
32 ~~analysis shall not be required or conducted in connection with the~~  
33 ~~determination or implementation of increases in universal service rates~~  
34 ~~associated with commission use of a threshold rate, and the increases shall~~  
35 ~~not be included in the calculation of the basic local exchange service rate~~  
36 ~~increase limits specified in §§ 23-17-407 and 23-17-412; and~~



1                   ~~(B) The commission may not require a reduction in~~  
2 ~~universal service rates to a threshold rate unless any associated decrease in~~  
3 ~~revenues is allowed to be concurrently recovered from the AUSF;~~

4                   ~~(4)(A)(i) In the event of a Federal Communications Commission~~  
5 ~~order, rule, or policy pursuant to 47 U.S.C. § 254(a)(2), the effect of which~~  
6 ~~is to change the federal Universal Service Fund revenues of an incumbent~~  
7 ~~local exchange carrier, the commission shall either increase the rates for~~  
8 ~~basic local exchange service or increase the incumbent local exchange~~  
9 ~~carrier's recovery from the AUSF or a combination thereof to replace the~~  
10 ~~reasonably projected change in revenues.~~

11                   ~~(ii) In determining whether to increase basic local~~  
12 ~~exchange service rates or increase the AUSF for a tier one company pursuant~~  
13 ~~to this section, the commission shall take into account that company's rates~~  
14 ~~and consider whether the rates are below the statewide average.~~

15                   ~~(B)(i)(a) Through December 31, 2003, any rural telephone~~  
16 ~~company, excluding tier one companies, that, as a result of changes caused by~~  
17 ~~new or existing federal or state regulatory or statutory directives,~~  
18 ~~experiences a change in intrastate or interstate switched access services~~  
19 ~~revenues or in net revenue received from the intrastate Carrier Common Line~~  
20 ~~Pool, interstate access charge pools, or the Arkansas IntraLATA Toll Pool~~  
21 ~~shall be allowed to recover the reductions from the AUSF or through~~  
22 ~~modifications in rates applicable to basic local exchange service. The~~  
23 ~~recovered amounts shall be limited to the net reduction in revenues from all~~  
24 ~~sources of support listed in subdivision (c)(4)(A) of this section and this~~  
25 ~~subdivision (c)(4)(B).~~

26                   ~~(b) Beginning January 1, 2004, any rural~~  
27 ~~telephone company, excluding tier one companies, that, as a result of changes~~  
28 ~~caused by new or existing federal or state regulatory or statutory~~  
29 ~~directives, experiences a change in intrastate or interstate switched access~~  
30 ~~services revenues or in net revenue received from the intrastate Carrier~~  
31 ~~Common Line Pool prior to January 1, 2004, interstate access charge pools, or~~  
32 ~~the Arkansas IntraLATA Toll Pool shall be allowed to recover the reductions~~  
33 ~~from the AUSF or through modifications in rates applicable to basic local~~  
34 ~~exchange service. The recovered amounts shall be limited to the net reduction~~  
35 ~~in revenues from all sources of support listed in subdivision (c)(4)(A) of~~  
36 ~~this section and this subdivision (c)(4)(B).~~

1                   ~~(ii)(a) This subdivision (e)(4)(B)(ii) shall become~~  
2 ~~effective on January 1, 2004.~~

3                   ~~(b) No ILEC shall receive reimbursement from~~  
4 ~~the AUSF for losses resulting from exiting the AIGCLP or for a reduction of~~  
5 ~~its carrier common line net revenue requirement unless:~~

6                                 ~~(1) The ILEC is eligible to be in the~~  
7 ~~AIGCLP on January 1, 2004; and~~

8                                 ~~(2)(A) The AIGCLP no longer provides a~~  
9 ~~mechanism by which ILECs may recover their carrier common line net revenue~~  
10 ~~requirements.~~

11                                 ~~(B)(i) If any provision of the AIGCLP is declared invalid~~  
12 ~~for any reason or preempted by any court or any administrative agency and the~~  
13 ~~Arkansas Public Service Commission determines that the provision is material,~~  
14 ~~then each AIGCLP member shall individually compute and charge a per-access~~  
15 ~~minute carrier common line rate to fund its carrier common line net revenue~~  
16 ~~requirement.~~

17                                 ~~(ii)(3)(A) The AIGCLP members shall charge the rate~~  
18 ~~under subdivision (e)(4)(B)(ii)(b)(2)(B)(i) (e)(4)(B)(i) of this section to~~  
19 ~~underlying carriers.~~

20                                 ~~(iii)(B) The ILECs shall charge a reciprocal~~  
21 ~~rate to other ILECs.~~

22                                 ~~(iv)(C) The commission may review the accuracy~~  
23 ~~of the reciprocal rates and the per-access minute carrier common line rate~~  
24 ~~charged under subdivision (e)(4)(B)(ii)(b)(2)(B) (e)(4)(B)(i) of this~~  
25 ~~section.~~

26                                 (c) If the AIGCLP fails to provide an ILEC's  
27 carrier common line net revenue requirement, the ~~commission shall provide for~~  
28 ILEC may obtain concurrent recovery of the revenue loss from ~~the AUSF,~~ basic  
29 local exchange rates, intrastate access rate adjustments, or a combination  
30 thereof. Any recovery of revenue loss under this subdivision shall not be  
31 subject to the caps on local rates under § 23-17-412

32                                 ~~(C) In connection with the receipt of AUSF funds for these~~  
33 ~~changes referred to in subdivisions (e)(4)(A) or (B) of this section, it~~  
34 ~~shall not be conditioned upon any rate case or earnings investigation by the~~  
35 ~~commission. The AUSF administrator shall verify the calculations and accuracy~~  
36 ~~of the net revenue reductions, based on a comparison between:~~

1                                   ~~(i) The total annual revenues received from these~~  
2 ~~sources by the eligible telecommunications carrier during the most recent~~  
3 ~~twelve (12) months preceding the required regulatory or statutory changes;~~  
4 ~~and~~

5                                   ~~(ii) The reasonable projection of total test year~~  
6 ~~annual revenue after the changes are implemented.~~

7                   ~~(D)(i)(a)(4)(A)~~ Through December 31, 2003, except as provided in  
8 this subdivision ~~(e)(4)(D)(e)(4)(A)~~ the intrastate Carrier Common Line  
9 charges billed to carriers by the Arkansas Intrastate Carrier Common Line  
10 Pool (AICCLP) shall be determined as provided in the AICCLP tariff effective  
11 on December 31, 2000. Following April 20, 2001, carriers must continue to  
12 report RBMOUs associated with the traffic that they reported as of December  
13 2000 except that incumbent local exchange carriers may discontinue reporting  
14 RBMOUs associated with their intracompany flat-rated optional plans that  
15 exist as of June 1, 2001. The AICCLP charges shall be adjusted to eliminate  
16 any credits to the AICCLP or to interexchange carriers that have been  
17 previously required.

18                                   ~~(b)(B)(i)~~ Beginning January 1, 2004, except as provided in  
19 this subdivision ~~(e)(4)(D)(e)(4)(B)~~, the intrastate Carrier Common Line  
20 charges billed to ILECs and underlying carriers shall be determined at the  
21 rate of one and sixty-five hundredths cents ~~(1.65)~~ (1.65¢) per intrastate  
22 access minute, exclusive of the amounts specified ~~in subdivisions~~  
23 ~~(e)(4)(D)(ii), (iii), and (iv) of this section~~ for funding Extension of  
24 Telecommunications Facilities Fund and the Arkansas Calling Plan Fund.

25 However, ILECs that are not AICCLP members may charge at a rate that is less  
26 than one and sixty-five hundredths cents ~~(1.65)~~ (1.65¢) and may recover the  
27 difference between the actual rate charged and one and sixty-five hundredths  
28 cents ~~(1.65)~~ (1.65¢) as allowed under § 23-17-416(b)(3). Following April 20,  
29 2001, carriers must continue to report RBMOUs associated with the traffic  
30 that they reported as of December 2000 and shall continue to report through  
31 December 31, 2003, except that incumbent local exchange carriers may  
32 discontinue reporting RBMOUs associated with their intracompany flat-rated  
33 optional plans that exist as of June 1, 2001. The AICCLP charges shall be  
34 adjusted to eliminate any credits to the AICCLP or to interexchange carriers  
35 that have been previously required.

36                                   (ii)(a) There is created an allocation of AICCLP

1 funds to be known as the "Extension of Telecommunications Facilities Fund".

2 (b) A maximum of five hundred thousand  
3 dollars (\$500,000) per year of AICCLP funds shall be allocated to fund the  
4 Extension of Telecommunications Facilities Fund to assist in the extension of  
5 telecommunications facilities to citizens not served by the wire line  
6 facilities of an eligible telecommunications carrier.

7 (iii)(a)(1) There is also created an AICCLP  
8 allocation to be known as the "Arkansas Calling Plan Fund".

9 (2) Through December 31, 2003, the  
10 Extension of Telecommunications Facilities Fund and the Arkansas Calling Plan  
11 Fund will be funded by the AICCLP by assessing one-half (1/2) of the fund to  
12 be paid by ILECs and one-half (1/2) of the fund to be paid by all other  
13 telecommunications providers reporting intrastate retail billed minutes of  
14 use to the AICCLP.

15 (b) The Arkansas Calling Plan Fund shall  
16 receive a maximum of four million five hundred thousand dollars (\$4,500,000)  
17 per year to assist in funding the provision of calling plans in telephone  
18 exchanges in the state.

19 (iv)(a) Through December 31, 2003, the Extension of  
20 Telecommunications Facilities Fund and the Arkansas Calling Plan Fund will be  
21 funded by the AICCLP assessing one-half (1/2) of the fund to be paid by  
22 incumbent local exchange carriers (ILECs) and one-half (1/2) of the fund to  
23 be paid by all other telecommunications providers reporting intrastate retail  
24 billed minutes of use to the AICCLP. Beginning January 1, 2004, the Extension  
25 of Telecommunications Facilities Fund and the Arkansas Calling Plan Fund will  
26 be paid by the AICCLP members, exiting ILECs, and underlying carriers as  
27 follows:

28 (1) Each AICCLP member and each exiting  
29 ILEC shall remit to the AICCLP administrator on a monthly basis the  
30 proportion of the total assessment each was paying before December 31, 2003,  
31 for a collective total of one-half (1/2) of those funds;

32 (2) Underlying carriers shall pay to the  
33 administrator a collective total of one-half (1/2) of the cost of the  
34 Arkansas Calling Plan Fund and Extension of Telecommunications Facilities  
35 Fund; and

36 (3) Each underlying carrier shall

1 continue to remit to the administrator on a monthly basis its portion of the  
2 underlying carrier funding requirement of the Arkansas Calling Plan Fund and  
3 Extension of Telecommunications Facilities Fund, based upon the underlying  
4 carrier's share of Arkansas intrastate telecommunications services revenues  
5 and special intrastate ILEC revenues proportionate to the total Arkansas  
6 intrastate telecommunications services revenues and special intrastate ILEC  
7 revenues of all underlying carriers.

8 (b) Through December 31, 2003, ILECs shall be  
9 individually assessed in accordance with the proportion that the ILEC funds  
10 the AICCLP credits that are being eliminated by this section, and each other  
11 telecommunications provider shall be assessed based on its portion of the  
12 total non-ILEC intrastate retail billed minutes of use.

13 (c) Amounts paid by ILECs to fund either the  
14 Extension of Telecommunications Facilities Fund or the Arkansas Calling Plan  
15 Fund created by this section shall not be recoverable from the Arkansas  
16 Universal Service Fund (AUSF).

17 (d)(1) The assessments shall commence upon the  
18 first day of the month following April 20, 2001.

19 ~~(2) The first four million dollars~~  
20 ~~(\$4,000,000) shall be allocated monthly as collected to assure that the AUSF~~  
21 ~~has adequate funds to compensate any retroactive claims that may be made~~  
22 ~~against the AUSF due to the change in the test period resulting from the~~  
23 ~~decision in AT&T Communications of the S.W., Inc. v. Arkansas Pub. Serv.~~  
24 ~~Comm'n, 344 Ark. 188, 40 S.W.3d 273 (2001).~~

25 ~~(3) Following the allocation to the~~  
26 ~~AUSF, assessments~~ Assessments shall be made with respect to the Extension of  
27 Telecommunications Facilities Fund and the Arkansas Calling Plan Fund only to  
28 the extent necessary, but not more than the maximum specified in this  
29 section, to fund any extensions of facilities or calling plans approved by  
30 the Arkansas Public Service Commission in accordance with applicable law and  
31 this section.

32 (v)(a) AICCLP charges determined and billed through  
33 December 2000 shall be considered final and not subject to further true up or  
34 adjustment.

35 ~~(b) In addition, if an eligible~~  
36 ~~telecommunications carrier was financially harmed by a court ordered change~~

1 ~~in the test period applicable for the AUSF funding and an alternate test~~  
2 ~~period was used by the eligible telecommunications carrier for more than one~~  
3 ~~(1) year, then the test period for the harmed eligible telecommunications~~  
4 ~~carrier shall remain the test period originally set by the commission.~~

5 ~~(e)-(1)(b)(1)(A)~~ Unless an audit is requested  
6 prior to February 28, 2004, by a two-thirds (2/3) vote of the participating  
7 carriers of the AICCLP as it is constituted prior to January 1, 2004, charges  
8 determined and billed through December 2003 shall be considered final and not  
9 subject to audit.

10 (B) The AICCLP board, with the  
11 assistance of the administrator, shall allow recipients and payors to correct  
12 any errors concerning the AICCLP settlement process for corrections that are  
13 for the time period after December 31, 2003.

14 (2) The administrator of the AICCLP as  
15 it existed prior to January 1, 2004, may supervise any audit that is  
16 requested and may further take any action deemed reasonable or necessary to  
17 finalize the winding-up process of the AICCLP as it existed prior to January  
18 1, 2004;

19 (C)(i) Any ETC may receive support from the AHCF after it  
20 is established and operational. Until that time the current AUSF shall  
21 continue to provide support through June 30, 2007, at the level set by  
22 commission order. After June 30, 2007, the support level for companies  
23 receiving payments from the AUSF shall continue at the level previously  
24 ordered by the commission subject to an adjustment to reflect the elimination  
25 of an overpayment made to AUSF recipients in 2006. At such time that the  
26 AHCF is fully operational and providing support to ETCs through the formula  
27 set forth herein, all payments from the AUSF shall cease and the AUSF shall  
28 be eliminated and administratively closed as soon as possible.

29 (ii)(a) The formula is as follows for ETCs with  
30 fewer than five hundred thousand (500,000) access lines or customers:

31 (1) The AHCF administrator shall  
32 determine the support for High Cost Loop Support by using the most current  
33 annual filing of annual unseparated unlimited loop revenue requirement cost  
34 per loop of the ETC's study area as developed each year by NECA, and filed  
35 with USAC. For an ETC not submitting such information, the ETC shall submit  
36 equivalent information to the administrator for the administrator to

1 calculate as to cost per loop for wireline or per customer for commercial  
2 mobile service providers. Unless the commission determines otherwise the raw  
3 financial data submitted to the administrator to establish an alternate cost  
4 per loop shall be treated as confidential;

5 (2) The AHCF administrator shall then  
6 subtract the per loop federal high-cost loop support as developed each year  
7 by NECA and filed with USAC of the ETC's study area or alternatively the  
8 total high cost loop support per loop or per customer as calculated by the  
9 AHCF administrator with data provided by the ETC;

10 (3) The AHCF administrator shall also  
11 subtract the amount of three hundred forty-four dollars and forty cents  
12 (\$344.40) per loop, due to the responsibility of each ETC to fund through  
13 local rates and other revenue such as AICCLP Revenue requirements, and access  
14 charges, to fund a significant portion of their cost per loop. Alternatively,  
15 the AHCF administrator shall subtract three hundred forty-four dollars and  
16 forty cents (\$344.40) per loop or customer from ETCs not reporting loops and  
17 loop cost to NECA;

18 (4) The AHCF administrator shall  
19 determine the high-cost support for each ETC by subtracting these reductions  
20 as set forth in this formula from the annual unseparated unlimited loop  
21 revenue requirement and apply it to the total number of loops in the ETC's  
22 study area as of December 31 of the preceding year that are eligible for  
23 support for Federal Universal Service. As to ETCs not reporting loops within  
24 its study area, the AHCF administrator shall apply the reductions to the  
25 total number of loops or customers of the ETC eligible for support for  
26 Federal Universal Service as of December 31 of the preceding year; and

27 (5) The remaining balance, if positive  
28 as to each ETC, shall be the ETC's Loop Support Element to support an ETC's  
29 high cost loops. As to ETCs funded based upon customers, the remaining  
30 balance, if positive, shall be called the Customer Support Element.

31 (b)(1) The AHCF administrator shall determine  
32 Local Switching Support (LSS) of each ETC using the most current annual  
33 financial data submitted to NECA and calculated by USAC and applying the  
34 following procedure:

35 (A) The AHCF administrator shall  
36 use the most current trued up Local Switching Support Amount that has been

1 calculated by NECA and submitted to USAC annually for each ETC within its  
2 size group. For each ETC that does not have an individually calculated Local  
3 Switching Support Amount, the AHCF administrator shall calculate a Local  
4 Switching Support Amount by using an average of all ETCs within its size  
5 group that have an established Local Switching Support Amount;

6 (B) The AHCF administrator shall  
7 calculate the Local Switching Support Factor for each ETC's study area by  
8 taking the 1996 Weighted Dialed Equipment Minute Factor as supplied in the  
9 NECA Submission of 1999 Network Usage Data filed on March 1, 2001, with the  
10 FCC and subtracting the 1996 Interstate Dialed Equipment Minute Factor as  
11 supplied in the NECA Submission of 1999 Network Usage Data filed on March 1,  
12 2001 with the FCC. This result shall be called the Local Switching Support  
13 Factor. For each ETC that does not have an individually calculated Weighted  
14 Dialed Equipment Minute Factor and an Interstate Dialed Equipment Minute  
15 Factor, the AHCF administrator shall calculate a Weighted Dialed Equipment  
16 Minute Factor and an Interstate Dialed Equipment Minute Factor by using an  
17 average of all ETCs within its size group that have an established Weighted  
18 Dialed Equipment Minute Factor and an Interstate Dialed Equipment Minute  
19 Factor;

20 (C) The AHCF administrator shall  
21 then calculate the Total LSS Revenue Requirement for each ETC by dividing the  
22 Local Switching Support amount calculated in (e)(4)(C)(ii)(b)(1)(A) of this  
23 section by the Local Switching Support Factor as calculated in  
24 (e)(4)(C)(i)(b)(1)(B) of this section;

25 (D) The AHCF administrator shall  
26 then divide the Total LSS Revenue Requirement for Each ETC by the total  
27 number of loops in the ETC's study area as of December 31 of the preceding  
28 year that are eligible for support for Federal Universal Service;

29 (E) The AHCF administrator shall  
30 then calculate the Local Switching Support (LSS) to be recovered by  
31 multiplying the Total LSS Revenue Requirement per loop as calculated in  
32 (e)(4)(C)(ii)(b)(1)(D) of this section by fifteen percent (15%); and

33 (F) The sum of  
34 (e)(4)(C)(ii)(b)(1)(E) of this section as to each ETC, if positive, shall be  
35 the ETC's Local Switching Support Element.

36 (b)(2) If a request for support is made by an



1 ETC that does not have switching support calculated by NECA, the commission  
2 shall develop a proxy method to be used to calculate such an ETC's Local  
3 Switching Support. The sum of the calculation for each ETC from the proxy  
4 method, if positive, shall be the ETC's Local Switching Support Element.

5 (c)(1) For ETCs with AHCF support based on  
6 loops, the AHCF administrator shall determine each ETC's Local Loop Support  
7 by multiplying the number of loops of the ETC as of December 31 of the  
8 preceding year which is eligible for Federal Universal Service Support by the  
9 ETC's Loop Support Element, if applicable, and the AHCF administrator shall  
10 determine the ETC's Local Switching Support by multiplying the number of  
11 loops of the ETC as of December 31 of the preceding year which is eligible  
12 for Federal Universal Service Support by the ETC's Local Switching Support  
13 Element. The AHCF administrator shall determine the uncapped AHCF support  
14 for each ETC by adding the sum of the ETC's total Loop Support, if any, and  
15 the ETC's total Local Switching Support, if any.

16 (2) For ETCs with AHCF support based on  
17 customers, the AHCF administrator shall determine the ETC's Customer Support  
18 Element by multiplying the number of customers of the ETC as of December 31  
19 of the preceding year who are eligible for Federal Universal Service Support  
20 by the ETC's Customer Support Element, if applicable, and the AHCF  
21 administrator shall determine the ETC's Local Switching Support by  
22 multiplying the number of customers of the ETC as of December 31 of the  
23 preceding year who are eligible for Federal Universal Service Support by the  
24 ETC's Local Switching Support Element. The AHCF administrator shall  
25 determine the uncapped AHCF support for the ETC by adding the sum of the  
26 ETC's total Loop Support, if any, and the ETC's total Local Switching  
27 Support, if any.

28 (iii)(a) For ETCs with five hundred thousand  
29 (500,000) lines or more, support will be determined using the following  
30 procedure:

31 (1) Using the FCC's synthesis model  
32 available from USAC or an equivalent replacement model, the AHCF  
33 administrator shall take the ETCs' average monthly per line cost for each  
34 eligible wire center and subtract the FCC cost model benchmark. The result  
35 of the line cost minus the benchmark is the available per line high-cost  
36 support available for that wire center;



1                   (b) In Year Two of the transition period, the  
2 administrator shall first calculate the total support due an ETC from the  
3 AHCF. If the AHCF calculation for the ETC exceeds the revenue the ETC  
4 received from the AUSF in the 2007 Revenue Base, the AHCF calculation shall  
5 be the ETC's uncapped unreduced AHCF support. If the ETC's calculated AHCF  
6 support is less than the ETC's 2007 Revenue Base, the ETC's AHCF uncapped  
7 support in Year Two shall be the ETC's AHCF calculated support plus seventy-  
8 eight percent (78%) of the difference between the ETC's 2007 Revenue Base and  
9 the ETC's calculated AHCF support;

10                   (c) In Year Three of the transition period,  
11 the administrator shall first calculate the total support due an ETC from the  
12 AHCF. If the AHCF calculation for the ETC exceeds the revenue the ETC  
13 received from the AUSF in the 2007 Revenue Base, the AHCF calculation shall  
14 be the ETC's uncapped unreduced AHCF support. If the ETC's calculated AHCF  
15 support is less than the ETC's 2007 Revenue Base, the ETC's AHCF uncapped  
16 support in Year Three shall be the ETC's AHCF calculated support plus sixty-  
17 seven percent (67%) of the difference between the ETC's 2007 Revenue Base and  
18 the ETC's calculated AHCF support;

19                   (d) In Year Four of the transition period, the  
20 administrator shall first calculate the total support due an ETC from the  
21 AHCF. If the AHCF calculation for the ETC exceeds the revenue the ETC  
22 received from the AUSF in the 2007 Revenue Base, the AHCF calculation shall  
23 be the ETC's uncapped unreduced AHCF support. If the ETC's calculated AHCF  
24 support is less than the ETC's 2007 Revenue Base, the ETC's AHCF uncapped  
25 support in Year Four shall be the ETC's AHCF calculated support plus fifty-  
26 one percent (51%) of the difference between the ETC's 2007 Revenue Base and  
27 the ETC's calculated AHCF support;

28                   (e) In Year Five of the transition period, the  
29 administrator shall first calculate the total support due an ETC from the  
30 AHCF. If the AHCF calculation for the ETC exceeds the revenue the ETC  
31 received from the AUSF in the 2007 Revenue Base, the AHCF calculation shall  
32 be the ETC's uncapped unreduced AHCF support. If the ETC's calculated AHCF  
33 support is less than the ETC's 2007 Revenue Base, the ETC's AHCF uncapped  
34 support in Year Five shall be the ETC's AHCF calculated support plus thirty-  
35 four percent (34%) of the difference between the ETC's 2007 Revenue Base and  
36 the ETC's calculated AHCF support; and

1 (f) After the five-year transition period the  
2 AHCF administrator shall calculate each ETC's support by first calculating  
3 each ETC's uncapped AHCF support. If the total calculated support to all  
4 ETCs within a size group is less than the capped amount of the size group's  
5 part of the total AHCF, each ETC within the size group shall be entitled to  
6 its total calculated AHCF support.

7 (D)(i)(a) The cost to transition from the 2007 Revenue  
8 base to the AHCF during the five-year transition period shall be funded by a  
9 combination of sources. The AHCF administrator shall reserve three million  
10 dollars (\$3,000,000) from the existing AUSF surplus to assist in funding the  
11 transition period. The specific annual amounts the AHCF administrator shall  
12 use from the surplus for the transition period shall be as follows:

13 (1) One million dollars (\$1,000,000) for  
14 Year One;

15 (2) Seven hundred fifty thousand dollars  
16 (\$750,000) for Year Two;

17 (3) Seven hundred fifty thousand dollars  
18 (\$750,000) for Year Three;

19 (4) Two hundred fifty thousand dollars  
20 (\$250,000) for Year Four; and

21 (5) Two hundred fifty thousand dollars  
22 (\$250,000) for Year Five.

23 (b) In the event the total transition cost in  
24 a year is less than the amount scheduled to be used that year from the AUSF  
25 surplus, that excess amount shall be used to assist in funding the transition  
26 in the subsequent year or years.

27 (ii)(a) The AHCF administrator shall calculate the  
28 total support necessary to fully fund the transition cost for each specific  
29 calendar year.

30 (b) If the transition support from the surplus  
31 fully funds the transition costs, the AHCF administrator shall add each ETC's  
32 calculated AHCF support to any transition support to which the ETC may be  
33 entitled, and that amount shall be the ETC's uncapped AHCF support.

34 (c) If the surplus does not fully fund the  
35 transition costs, then each ETC participating in the size group with a total  
36 customer access base of under fifteen thousand (15,000) access lines that is

1 not receiving transition funds shall pay a prorata share of the remaining  
2 transition costs based upon a formula using total increase in support  
3 received by all ETCs with an increase from the 2007 Revenue Base to AHCF  
4 levels as the denominator and the specific ETC's increase from the 2007  
5 Revenue Base to the AHCF support as the numerator. The AHCF administrator  
6 shall use that formula to calculate the pro rata share of each ETC that is  
7 not receiving transition funds to assist in fully funding the transition  
8 costs. However, an ETC shall not be required to pay transition funding that  
9 would lower its uncapped payment from the AHCF below the ETC's funding  
10 received from the AUSF in the 2007 revenue base.

11 (iii) The annual transition funds provided from the  
12 AUSF surplus and the funds used in the transition are supplemental funds, are  
13 in addition to the capped funds, and are not to be considered when a cap is  
14 calculated at any time.

15 (E) The AHCF administrator shall apply the cap on the  
16 total AHCF and upon the specific size groups established within the AHCF  
17 annually. During the transition, the cap shall be applied as follows:

18 (i)(a)(1) The total AHCF support that is calculated  
19 to be due ETCs within each size group of the AHCF shall be calculated prior  
20 to the consideration of the transition funding. If total support due a size  
21 group, prior to transition funding, does not exceed that size group's AHCF  
22 cap, the AHCF administrator shall pay that size group's full AHCF support  
23 amount.

24 (2) If total support, using the AHCF  
25 formula for recipients of the specific size group exceeds the cap, the  
26 administrator shall determine the amount that the total calculated AHCF  
27 support exceeds that size group's cap.

28 (b) To reduce each size group's authorized  
29 support to conform to the size group's cap, the AHCF administrator shall  
30 determine total calculated AHCF support to each ETC within the size group and  
31 shall add each ETC's transition payment, if any, to establish each ETC's  
32 total calculated support within the size group. The AHCF administrator shall  
33 then use the total calculated support due all ETCs within the size group as  
34 the denominator and the amount the size group's AHCF calculation exceeds the  
35 cap as the numerator. The administrator shall then subtract from each ETC's  
36 total calculated support, a pro rata portion, using the fraction established

1 herein to reduce AHCF funding to the capped amount, based upon each ETC's  
2 total calculated support, to reduce the size group's support level to the  
3 capped AHCF amount.

4 (ii)(a) The funds available for distribution to ETCs  
5 from the AHCF shall not exceed and are capped at twenty-two million dollars  
6 (\$22,000,000) per year, the total capped fund. Cost of administrating the  
7 AHCF shall first be deducted from the total capped fund prior to allocation  
8 of funding to the ETCs. Transition funds used from the surplus during the  
9 five-year transition period are supplemental and are not subject to any cap.  
10 The annual period to be used by the AHCF administrator to adjust support  
11 levels and upon which to apply any cap shall be on the calendar year. In  
12 addition to the total fund cap, the funds available from the AHCF shall also  
13 be capped based upon size groups using access lines for loop-based ETCs and  
14 customers for customer-based ETCs. Size grouping is used to ensure funds are  
15 targeted to areas most needing high-cost assistance. For the purpose of  
16 calculating the size grouping caps, total customer access base shall be used  
17 for loop-based ETCs and total customers for customer-based ETCs.

18 (b) For all ETCs with a total customer access  
19 base or total customer base of five hundred thousand (500,000) or more access  
20 lines or customers, the size group cap shall be thirteen and one-half percent  
21 (13.5%) of the total capped fund.

22 (c) For all ETCs with a total customer access  
23 base or total customer base of one hundred fifty thousand (150,000) or more  
24 access lines or customers and less than five hundred thousand (500,000)  
25 access lines or customers, the size group cap shall be thirteen and one-half  
26 percent (13.5%) of the total capped fund.

27 (d) For all ETCs with a total customer access  
28 base or total customer base of fifteen thousand (15,000) or more access lines  
29 or customers and less than one hundred fifty thousand (150,000) access lines  
30 or customers, the size group cap shall be two percent (2%) of the total  
31 capped fund.

32 (e) For all ETCs with a total customer access  
33 base or total customer base of less than fifteen thousand (15,000) access  
34 lines or customers, the size group cap shall be seventy-one percent (71%) of  
35 the total capped fund.

36 ~~(5) All eligible telecommunications carriers may request high-cost~~

1 funding from the AUSF as necessary in the future to maintain rates for  
2 universal services that are reasonable, affordable, and comparable between  
3 urban and rural areas. Except as otherwise provided in this subchapter, the  
4 funding shall be based on all net investment, including embedded investment,  
5 and expenses incurred by the eligible telecommunications carriers in the  
6 provision of universal service. High-cost funding shall be provided to  
7 eligible telecommunications carriers as needed for the following:

8 (A) Investments and expenses required to provide,  
9 maintain, and support universal services;

10 (B) Infrastructure expenditures in response to facility or  
11 service requirements established by any legislative, regulatory, judicial  
12 authority, or governmental entity; and

13 (C) For other purposes deemed necessary by the commission  
14 to preserve and advance the public education and welfare;

15 (6) In identifying and measuring the costs of providing  
16 universal services, exclusively for the purpose of determining high-cost  
17 funding levels under this subdivision (c)(6), eligible telecommunications  
18 carriers shall have the following options:

19 (A) The eligible telecommunications carrier may utilize  
20 traditional rate case methods and procedures to identify universal service  
21 revenue requirements and a residual AUSF funding requirement;

22 (B) The eligible telecommunications carrier may identify  
23 high-cost areas within its local exchange area, the area being no smaller  
24 than a single exchange or wire center, and perform a fully distributed  
25 allocation of cost and identification of associated revenue in order to  
26 quantify funding needs for the areas; or

27 (C) The commission shall adopt reasonable cost proxies  
28 that may be used by an eligible telecommunications carrier for this purpose;

29 (7) In calculating revenue requirements only for the purpose of  
30 establishing high-cost funding needs from the AUSF, the commission shall not  
31 fix depreciation rates. However, the commission may make reasonable  
32 adjustments to depreciation expense if an eligible telecommunications  
33 carrier's composite depreciation annual accrual rate is greater than the  
34 weighted average of composite rates for similar plant and equipment of all  
35 other telecommunications providers providing comparable services in the  
36 state. In that case, the commission may adjust depreciation expenses of the

1 ~~eligible telecommunications carrier to levels that would not exceed fifteen~~  
2 ~~percent (15%) above a composite accrual rate comparable to the statewide~~  
3 ~~weighted average; and~~

4 ~~(8)(A)(i)(5)(A)(i)~~ The commission shall establish by regulation  
5 a grant program to make grants available to eligible telecommunications  
6 carriers for the extension of facilities to citizens who are not served by  
7 wire line services of an eligible telecommunications carrier. Grants may be  
8 requested by an eligible telecommunications carrier or citizens who are not  
9 served, or both.

10 (ii) The commission shall delegate to a trustee the  
11 administration, collection, and distribution of the Extension of  
12 Telecommunications Facilities Fund in accordance with the rules and  
13 procedures established by the commission. The trustee shall enforce and  
14 implement all rules and directives governing the funding, collection, and  
15 eligibility for the Extension of Telecommunications Facilities Fund.

16 (B)(i) In establishing regulations for the grant program,  
17 the commission shall consider demonstrated need, the length of time the  
18 citizens have not been served, the households affected, the best use of the  
19 funds, and the overall need for extensions throughout the state.

20 (ii) The commission may require each potential  
21 customer to be served by the extension of facilities to pay up to two hundred  
22 fifty dollars (\$250) of the cost of extending facilities.

23 (C) The plan shall be funded by customer contributions and  
24 by the Extension of Telecommunications Facilities Fund established by  
25 subdivision (e)(4)(D) of this section.

26 (D)(i) The commission shall provide quarterly reports to  
27 the Legislative Council. The reports shall include, but shall not be limited  
28 to, the number of requests for grants, the number of grants awarded, the  
29 amount awarded, and the number of additional customers served.

30 (ii) The commission shall notify members of the  
31 General Assembly of grants made in their districts.

32 (E) In order to allow time for potential applicants to  
33 request grants, no grants shall be awarded for three (3) months after the  
34 effective date of the rules establishing the program.

35 ~~(f) On or within thirty (30) days following the fifth anniversary of~~  
36 ~~February 4, 1997, the commission and the AUSF administrator shall complete~~



1 and deliver a report on the status and performance of the AUSF to the  
2 Legislative Council.

3 ~~(g) The current Universal Telephone Service Fund established pursuant~~  
4 ~~to § 23-17-301 et seq. will continue to exist until the AUSF is funded and~~  
5 ~~operational. At that time any funds remaining in the current fund will be~~  
6 ~~transferred to the AUSF, and the current fund will no longer be operational.~~

7  
8 SECTION 5. Arkansas Code § 23-17-405 is amended to read as follows:

9 23-17-405. Eligible telecommunications carrier.

10 (a) The incumbent local exchange carrier, its successors and assigns,  
11 which owns, maintains, and provides facilities for universal service within a  
12 local exchange area on February 4, 1997, shall be the eligible  
13 telecommunications carrier within the local exchange area.

14 (b) ~~Where the incumbent local exchange carrier receives AUSF support,~~  
15 ~~except in areas served by rural telephone companies, the~~ The Arkansas Public  
16 Service Commission, consistent with 47 U.S.C. § 214(e)(2), after reasonable  
17 notice and hearing, may designate other telecommunications providers to be  
18 eligible for ~~high cost support pursuant to § 23-17-404~~ federal Universal  
19 Service Fund or AHCF support under the following conditions:

20 (1)(A) The other telecommunications provider accepts the  
21 responsibility to provide service in response to any reasonable request from  
22 ~~to all~~ customers in an incumbent local exchange carrier's local exchange area  
23 using its own facilities or a combination of its own facilities and resale of  
24 another carrier's services.

25 (B) High-cost support under this section will not begin  
26 until the telecommunications provider ~~has facilities in place and~~ offers to  
27 ~~serve all~~ provide service in response to all reasonable requests for service  
28 from customers in its service area;

29 (2) The telecommunications provider may only receive funding for  
30 ~~the portion of its facilities that it owns and maintains~~ services provided in  
31 the eligible telecommunications carrier's study area using its own facilities  
32 or a combination of its own facilities and another carrier's facilities;

33 (3) The telecommunications provider will not receive ~~AUSF~~ AHCF  
34 funding at a level higher than the level of funding received by the incumbent  
35 local exchange carrier in the same area;

36 (4) The telecommunications provider advertises the availability

1 and the charges for the services, using media of general distribution; and

2 (5) It is determined by the commission that the designation is  
3 in the public interest.

4 (c) In exchanges or wire centers where the commission has designated  
5 more than one (1) eligible telecommunications carrier, the commission shall  
6 permit a local exchange carrier to relinquish its designation as an eligible  
7 telecommunications carrier, consistent with 47 U.S.C. § 214(e)(4), upon a  
8 finding that at least one (1) eligible telecommunications carrier will  
9 continue to serve the area.

10 (d)(1)(A) For the entire area served by a rural telephone company,  
11 excluding tier one companies, for the purpose of the ~~AUSE~~ AHCF and the  
12 federal Universal Service Fund, there shall be only one (1) wireline eligible  
13 telecommunications carrier which shall be the incumbent local exchange  
14 carrier that is a rural telephone company.

15 (B) Multiple wireless eligible telecommunications carriers  
16 may be designated in areas served by rural telephone companies.

17 (2) The rural telephone company may elect to waive its right to  
18 be the only wireline eligible telecommunications carrier within the local  
19 exchange area by filing notice with the commission.

20 ~~(3) If there is more than one eligible telecommunications~~  
21 ~~carrier, an eligible telecommunications carrier may petition the commission~~  
22 ~~and be granted relief from designation as an eligible telecommunications~~  
23 ~~carrier.~~

24 (e) An eligible telecommunications carrier may use commercial mobile  
25 services to provide universal services.

26  
27 SECTION 6. Arkansas Code § 23-17-407(d), concerning the date for  
28 another telecommunications provider to make an election, is amended to read  
29 as follows:

30 (d) Notwithstanding the provisions of this section, if, at any time  
31 following ~~the three-year anniversary of~~ the date of election pursuant to this  
32 section, another telecommunications provider is providing basic local  
33 exchange service or switched-access service within an electing company's  
34 local exchange area, the electing company within any exchange of the electing  
35 company in which another telecommunications provider is providing these  
36 services may commence determining its rates for basic local exchange service

1 and switched-access services in the same manner that it determines its rates  
2 for services other than basic local exchange service and switched-access  
3 service, pursuant to § 23-17-408(c).

4  
5 SECTION 7. The catchline of Arkansas Code § 23-17-412 is amended to  
6 read as follows:

7 23-17-412. Optional alternative regulation of ~~non-tier-one rural~~  
8 ~~telephone~~ eligible telecommunications companies.

9  
10 SECTION 8. Arkansas Code § 23-17-412(a)(1), concerning notice of  
11 alternative regulation, is amended to read as follows:

12 (a)(1) ~~Excluding tier one companies, rural telephone~~ Telephone  
13 companies that file notice with the Arkansas Public Service Commission of an  
14 election to be regulated in accordance with the provisions of this section  
15 are authorized to determine and account for their respective revenues and  
16 expenses, including depreciation expenses, pursuant to generally accepted  
17 accounting principles and, except as provided in this section, shall be  
18 subject to regulation only in accordance with this section and shall not be  
19 subject to any rate review or rate of return regulation by the commission.

20  
21 SECTION 9. Arkansas Code § 23-17-412(k) - (m), concerning time  
22 limitations for a change in basic rates and the packaging of services, is  
23 amended to read as follows:

24 (k) No ~~rural~~ telephone company subject to this section may change its  
25 basic local exchange service rates within ninety (90) days after entry of a  
26 final order adjusting the rate pursuant to subsections (g) and (i) of this  
27 section.

28 (l) Notwithstanding the provisions of this section, if at any time  
29 following the ~~three-year anniversary of the~~ notice provided under this  
30 section another telecommunications provider is providing basic local exchange  
31 service or switched-access service within a local exchange area of the  
32 company subject to this section, the company that is subject to this section  
33 may determine its rates for basic local exchange service and switched-access  
34 service within any exchange in which another telecommunications provider is  
35 providing these services in the same manner that it determines its rates for  
36 other services pursuant to subsection (a) of this section.

1 (m) A ~~rural~~ telephone company electing to be regulated in accordance  
2 with this section may package any of its services with any other service it  
3 or its affiliates offer, with or without a discount, provided that basic  
4 local exchange services and switched-access services may be purchased  
5 separately at the rates that are established in accordance with this section.  
6

7 SECTION 10. EMERGENCY CLAUSE. It is found and determined by the  
8 General Assembly of the State of Arkansas that there is an immediate need for  
9 the amendment of the Telecommunications Regulatory Reform Act of 1997 to  
10 ensure compliance with federal law and regulations and to continue to  
11 encourage growth and competition; that any delay in the effective date of  
12 this act. Therefore, an emergency is declared to exist and this act being  
13 necessary for the preservation of the public peace, health, and safety shall  
14 become effective on:

15 (1) The date of its approval by the Governor;

16 (2) If the bill is neither approved nor vetoed by the Governor,  
17 the expiration of the period of time during which the Governor may veto the  
18 bill; or

19 (3) If the bill is vetoed by the Governor and the veto is  
20 overridden, the date the last house overrides the veto.

21  
22 /s/ Horn  
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24 APPROVED: 3/19/2007  
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