

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.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H3/31/03 H4/1/03 S4/9/03

A Bill

Act 1788 of 2003
HOUSE BILL 2817

5 By: Representatives Gillespie, *Nichols*
6 By: *Senator Horn*
7

For An Act To Be Entitled

8
9
10 AN ACT TO AMEND THE TELECOMMUNICATIONS REGULATORY
11 REFORM ACT OF 1997; TO RESTRUCTURE THE ARKANSAS
12 INTRASTATE CARRIER COMMON LINE POOL TO PROMOTE
13 LOWER INTRASTATE TOLL RATES BY STABILIZING THE
14 CARRIER COMMON LINE RATE; AND FOR OTHER PURPOSES.
15

Subtitle

16
17 TO RESTRUCTURE THE ARKANSAS INTRASTATE
18 CARRIER COMMON LINE POOL TO PROMOTE
19 LOWER INTRASTATE TOLL RATES.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. *Arkansas Code § 23-17-403(4), concerning the definition of*
25 *Arkansas Intrastate Carrier Common Line Pool under the Telecommunications*
26 *Regulatory Reform Act of 1997, is amended to read as follows:*

27 (4) *"Arkansas Intrastate Carrier Common Line Pool" or "AICCLP" means*
28 *the unincorporated organization of the providers of Arkansas*
29 *telecommunications services, authorized by the commission and by state law,*
30 *whose purpose is to manage billing, collection, and distribution of the*
31 *~~incumbent local exchange carrier's intrastate toll common line service~~*
32 *~~revenue requirements~~ carrier common line revenue requirements;*
33

34 SECTION 2. *Arkansas Code § 23-17-403(10), concerning the definition of*
35 *eligible communications carrier under the Telecommunications Regulatory Act*
36 *of 1997, is amended to read as follows:*

1 (10) "Eligible telecommunications carrier" means the local exchange
2 carrier determined in accordance with ~~§ 23-17-205~~ § 23-27-405;

3
4 SECTION 3. Arkansas Code § 23-17-403(16), concerning the definition of
5 incumbent local exchange carrier under the Telecommunications Regulatory
6 Reform Act of 1997, is amended to read as follows:

7 (16) "Incumbent local exchange carrier" or "ILEC" means, with respect
8 to a local exchange area, a local exchange carrier, including successors and
9 assigns, that is certified by the commission and was providing basic local
10 exchange service on February 8, 1996;

11
12 SECTION 4. Arkansas Code § 23-17-403(19), concerning the definition of
13 local exchange carrier under the Telecommunications Regulatory Reform Act of
14 1997, is amended to read as follows:

15 (19) "Local exchange carrier" or "LEC" means a telecommunications
16 provider of basic local exchange service and switched access service. The
17 term does not include commercial mobile service providers;

18
19 SECTION 5. Arkansas Code § 23-17-403(27), concerning the definition of
20 universal service under the Telecommunications Regulatory Act of 1997, is
21 amended to read as follows:

22 (27) "Universal service" means those telecommunications services that
23 are defined and listed in the definition of basic local exchange service
24 until changed by the commission pursuant to ~~§ 23-17-404(e)(3)~~ § 23-17-
25 404(e)(2)(A).

26
27 SECTION 6. Arkansas Code § 23-17-403, concerning definitions under the
28 Telecommunications Regulatory Reform Act of 1997, is amended to add
29 additional subdivisions to read as follows:

30 (28) "Access minute", unless otherwise defined by the Arkansas Public
31 Service Commission, means the measurement of usage to provision
32 communications between:

33 (A) A customer premises and an interexchange carrier's point of
34 interconnection with a local exchange carrier's network for the completion of
35 end-user calls to the public switched network for the origination and
36 termination of interexchange long distance traffic; and

1 (B) A customer premises and another LEC's point of termination
2 with a local exchange carrier's network for the completion of end-user calls
3 to the public switched network for the origination and termination of
4 interexchange long distance traffic;

5 (29) "AICCLP member" means an ILEC that is eligible to be a member of
6 the AICCLP after December 31, 2003, and that has not terminated its
7 membership under § 23-17-414(f)(2);

8 (30)(A) "AICCLP rate adjustment" means the local service rate
9 adjustment, determined by the AICCLP administrator, that may be charged by
10 each AICCLP member to its customers to recover a portion of its carrier
11 common line net revenue requirement.

12 (B)(i) For any AICCLP member that is eligible to be a member of
13 the AICCLP as of January 1, 2004, for whom the sum of the residential local
14 exchange rate and extended area service additive is higher than the average
15 residential local exchange rate for all members eligible to be members as of
16 January 1, 2004, the monthly AICCLP rate adjustment shall be the lesser of
17 fifty cents (50 ¢) or an amount that yields the total monthly carrier common
18 line net revenue requirement per access line.

19 (ii) For any AICCLP member that is eligible to be a member of the
20 AICCLP as of January 1, 2004, for whom the sum of its residential local
21 exchange rate and extended area service additive is lower than the average
22 residential local exchange rate for all members eligible to be members as of
23 January 1, 2004, the monthly AICCLP rate adjustment shall be the lesser of
24 seventy-five cents (75¢) or an amount that yields the total monthly carrier
25 common line net revenue requirement per access line;

26 (iii) If the amount due to an AICCLP member under § 23-17-14(h) is
27 limited due to the annual one million three hundred thousand dollar
28 (\$1,300,000) cap under § 23-17-414(e)(8)(B)(i), and if the member's AICCLP
29 rate adjustment and the amount due to the AICCLP member under § 23-17-14(h)
30 do not allow the member to recover its common line net revenue requirement,
31 the member may charge an additional amount for local rates to recover its
32 carrier common line net revenue requirement.

33 (31) "Arkansas intrastate telecommunications services revenues" means
34 the revenues of all carriers that are not ILECs, which are derived from end-
35 users for telecommunications within Arkansas and telecommunications services
36 provided within Arkansas, including messages that are switched or otherwise

1 temporarily transported outside of Arkansas in the process of delivering the
2 message within Arkansas;

3 (32) "Carrier common line net revenue requirement" means the monthly
4 variable funding requirement of an AICCLP member, which is calculated as the
5 sum of the member's intrastate carrier common line revenue requirement, the
6 member's terminating carrier common line expense, based on its per minute
7 terminations on other ILECs, the member's Arkansas Calling Plan Fund and
8 Extension of Telecommunications Facilities Fund expense, and the member's
9 share of AICCLP administrative fees, minus the sum of the carrier common line
10 revenue, based on per minute terminations received from other ILECs, carrier
11 common line revenue received from underlying carriers for originating and
12 terminating access minutes, the AICCLP rate adjustment, and the fixed ILEC
13 retail billed minutes of use expense based on the data development period
14 determination of average monthly retail billed minutes of use expense of the
15 member;

16 (33) "Data development period" means the time period in which the
17 AICCLP members and initial exiting ILECs shall obtain relevant data necessary
18 to:

19 (A) Calculate the fixed amounts of retail billed minutes-of-use
20 expense and to test and obtain reliability of the billing and reporting
21 systems to be used by the AICCLP; and

22 (B) Calculate the fixed carrier common line revenue shortfall
23 for members required to exit the pool on December 31, 2003;

24 (34) "Exiting ILEC" means an ILEC that terminates its membership in
25 the AICCLP under § 23-17-414(f);

26 (35) "Fixed carrier common line revenue shortfall" means the total
27 annual funding requirement of an ILEC that must exit the AICCLP under § 23-
28 17-414(f)(1), which is calculated as the sum of an ILEC's intrastate carrier
29 common line revenue requirement, the ILEC's terminating carrier common line
30 expense, based on its per minute terminations on other ILECs, the ILECs
31 Arkansas Calling Plan Fund and Extension of Telecommunications Facilities
32 Fund expense; minus the sum of the carrier common line revenue, based on per
33 minute terminations received from other ILECs, carrier common line revenue
34 received from underlying carriers for originating and terminating access
35 minutes, and the fixed ILEC retail billed minutes of use expense based on the
36 data development period determination of average monthly retail billed

1 minutes of use expense of the ILEC;

2 (36) "Fixed ILEC retail billed minutes of use expense" means the fixed
3 determination of the average retail billed minutes-of-use expense paid to the
4 AICCLP by the ILEC based upon the ILEC's three (3) month average retail
5 billed minutes of use expense during its applicable data development period,
6 as determined under § 23-17-414(h), exclusive of any retail billed minutes of
7 use expense associated with retail billed minutes of uses provided by a toll
8 reseller of an underlying carrier that is an ILEC;

9 (37) "ILEC Arkansas Calling Plan Fund and Extension of
10 Telecommunications Facilities Fund expense" means the charge assessed against
11 an ILEC in proportion to the AICCLP credits that were eliminated by § 23-17-
12 404(e)(4)(D)(iv)(b);

13 (38) "ILEC intrastate carrier common line revenue requirement" means
14 the fixed annual payment each ILEC was entitled to receive from the AICCLP,
15 before any offsets or adjustments, as provided in the Arkansas Intrastate
16 Carrier Common Line Pool tariff, as it existed before January 1, 2004;

17 (39) "Special intrastate ILEC revenue" means the revenue a toll
18 reseller pays to an ILEC when the ILEC provides toll services to the toll
19 reseller;

20 (40) "Toll reseller" means a carrier that resells intrastate
21 telecommunications services that are provided to the carrier by an underlying
22 carrier;

23 (41)(A) "Total customer access base" means the total of all ILEC
24 customer access lines within Arkansas of an entity that directly or
25 indirectly owns or controls, is owned or controlled by, or is under common
26 ownership or control with, another entity.

27 (B) For the purposes of subdivision (41)(A) of this section,
28 "own" means to own an equity interest or the equivalent thereof of more than
29 ten percent (10%); and

30 (42) Underlying carrier" means a facilities based CLEC or an
31 interexchange carrier, other than an ILEC, that originates and terminates
32 intrastate interexchange calls on the public switched network directly or
33 through resale to a toll reseller or an ILEC that provides the toll services
34 used by a toll reseller.

35

36 SECTION 7. Arkansas Code § 23-17-404(e), concerning the Arkansas

1 *Universal Services Fund and the Arkansas Intrastate Carrier Common Line Pool,*
2 *is amended to read as follows:*

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

16 *(1) AUSF funding shall be provided directly to eligible*
17 *telecommunications carriers;*

18 *(2)(A) After reasonable notice and hearing, the commission may*
19 *revise the list of universal services, identified in § 23-17-403, that may be*
20 *supported by the AUSF to establish and maintain end-user rates for universal*
21 *services that are reasonably comparable between urban and rural areas, or to*
22 *reflect changes in the type and quality of telecommunications services*
23 *considered essential by the public, as evidenced, for example, by those*
24 *telecommunication services that are purchased and used by a majority of*
25 *single-line urban customers.*

26 *(B) The commission shall determine and approve AUSF*
27 *funding to eligible telecommunications carriers to recover the cost of*
28 *additions or revisions to the universal service list concurrent with any such*
29 *revisions to the list of universal services identified in § 23-17-403;*

30 *(3) If the commission establishes or utilizes a minimum or*
31 *threshold universal service rate, threshold rate, for the purpose of*
32 *determining the amount of AUSF that an eligible telecommunications carrier*
33 *may receive, the commission shall adhere to the following requirements:*

34 *(A) A rate case proceeding or earnings investigation or*
35 *analysis shall not be required or conducted in connection with the*
36 *determination or implementation of increases in universal service rates*

1 associated with commission use of a threshold rate, and the increases shall
 2 not be included in the calculation of the basic local exchange service rate
 3 increase limits specified in §§ 23-17-407 and 23-17-412; and

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

7 (4)(A) In the event of a Federal Communications Commission
 8 order, rule, or policy pursuant to 47 U.S.C. § 254(a)(2), the effect of which
 9 is to change the federal universal service fund revenues of an incumbent
 10 local exchange carrier, the commission shall either increase the rates for
 11 basic local exchange service or increase the incumbent local exchange
 12 carrier's recovery from the AUSF or a combination thereof to replace the
 13 reasonably projected change in revenues. In determining whether to increase
 14 basic local exchange service rates or increase the AUSF for a tier one
 15 company pursuant to this section, the commission shall take into account that
 16 company's rates and consider whether the rates are below the statewide
 17 average.

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

29 (b) Beginning January 1, 2004, any rural
 30 telephone company, excluding tier one companies, that, as a result of changes
 31 caused by new or existing federal or state regulatory or statutory
 32 directives, experiences a change in intrastate or interstate switched-access
 33 services revenues, or in net revenue received from the intrastate Carrier
 34 Common Line Pool prior to January 1, 2004, interstate access charge pools, or
 35 the Arkansas IntraLATA Toll Pool, shall be allowed to recover the reductions
 36 from the AUSF or through modifications in rates applicable to basic local

1 exchange service. The recovered amounts shall be limited to the net reduction
2 in revenues from all sources of support listed in subdivision (e)(4)(A) of
3 this section and this subdivision (e)(4)(B).

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

6 (b) No ILEC shall receive reimbursement from
7 the AUSF for losses resulting from exiting the AICCLP or for a reduction of
8 its carrier common line net revenue requirement unless:

9 (1) The ILEC is eligible to be in the
10 AICCLP on January 1, 2004; and

11 (2)(A) The AICCLP no longer provides a
12 mechanism by which ILECs may recover their carrier common line net revenue
13 requirements.

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

20 (ii) The AICCLP members
21 shall charge the rate under subdivision (e)(4)(B)(ii)(b)(2)(B)(i) of this
22 section to underlying carriers.

23 (iii) The ILECs shall charge
24 a reciprocal rate to other ILECs.

25 (iv) The commission may
26 review the accuracy of the reciprocal rates and the per-access minute carrier
27 common line rate charged under subdivision (e)(4)(B)(ii)(b)(2)(B) of this
28 section.

29 (c) If the AICCLP fails to provide an ILEC's
30 carrier common line net revenue requirement, the commission shall provide for
31 concurrent recovery of the revenue loss from the AUSF, basic local exchange
32 rates, or a combination thereof.

33 (C) In connection with the receipt of AUSF funds for these
34 changes referred to in subdivisions (e)(4)(A) or (B) of this section, such
35 shall not be conditioned upon any rate case or earnings investigation by the
36 commission. The AUSF administrator shall verify the calculations and accuracy

1 of the net revenue reductions, based on a comparison between:

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

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

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

19 (b) Beginning January 1, 2004, except as
20 provided in this subdivision (e)(4)(D), the intrastate Carrier Common Line
21 charges billed to ILECs and underlying carriers shall be determined at the
22 rate of one and sixty-five hundredths cents (1.65¢) per intrastate access
23 minute, exclusive of the amounts specified in subdivisions (e)(4)(D)(ii),
24 (iii), and (iv) of this section. However, ILECs that are not AICCLP members
25 may charge at a rate that is less than one and sixty-five hundredths cents
26 (1.65¢), and may recover the difference between the actual rate charged and
27 one and sixty-five hundredths cents (1.65¢) as allowed under § 23-17-
28 414(b)(3). Following April 20, 2001, carriers must continue to report RBMOUs
29 associated with the traffic that they reported as of December, 2000, and
30 shall continue to report through December 31, 2003, except that incumbent
31 local exchange carriers may discontinue reporting RBMOUs associated with
32 their intracompany flat-rated optional plans that exist as of June 1, 2001.
33 The AICCLP charges shall be adjusted to eliminate any credits to the AICCLP
34 or to interexchange carriers that have been previously required.

35 (ii)(a) There is hereby created an allocation of
36 AICCLP funds to be known as the "Extension of Telecommunications Facilities

1 Fund”.

2 (b) A maximum of five hundred thousand dollars
3 (\$500,000) per year of AICCLP funds shall be allocated to fund the Extension
4 of Telecommunications Facilities Fund to assist in the extension of
5 telecommunications facilities to citizens not served by the wireline
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) ~~The~~ Through December 31, 2003, the Extension
20 of Telecommunications Facilities Fund and the Arkansas Calling Plan Fund will
21 be 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
25 Extension of Telecommunications Facilities Fund and the Arkansas Calling Plan
26 Fund will be paid by the AICCLP members, exiting ILECs, and underlying
27 carriers as 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 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 (c)(1) Unless an audit is requested prior to
 6 February 28, 2004, by a two-thirds (2/3) vote of the participating carriers
 7 of the AICCLP as it is constituted prior to January 1, 2004, then charges
 8 determined and billed through December 2003 shall be considered final and not
 9 subject to audit.

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

15 ~~(vi)(a) The commission is authorized to implement,~~
 16 ~~following July 1, 2003, a phase in reduction of intrastate Carrier Common~~
 17 ~~Line Pool charges until each carrier's charges are equivalent to the~~
 18 ~~carrier's interstate Carrier Common Line charges, including all other federal~~
 19 ~~common line recovery mechanisms such as subscriber line charges,~~
 20 ~~presubscribed interexchange carrier charges, and long term support.~~

21 ~~(b) Any reduction of intrastate Carrier Common~~
 22 ~~Line Pool charges of incumbent local exchange carriers ordered by the~~
 23 ~~commission shall provide for concurrent recovery of the revenue loss from the~~
 24 ~~AUSF, basic local exchange rates, or a combination thereof;~~

25 (5) All eligible telecommunications carriers may request high-
 26 cost funding from the AUSF as necessary in the future to maintain rates for
 27 universal services that are reasonable, affordable, and comparable between
 28 urban and rural areas. Except as otherwise provided in this subchapter, the
 29 funding shall be based on all net investment, including embedded investment,
 30 and expenses incurred by the eligible telecommunications carriers in the
 31 provision of universal service. High-cost funding shall be provided to
 32 eligible telecommunications carriers as needed for the following:

33 (A) Investments and expenses required to provide,
 34 maintain, and support universal services;

35 (B) Infrastructure expenditures in response to facility or
 36 service requirements established by any legislative, regulatory, judicial

1 authority, or governmental entity; and

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

4 (6) In identifying and measuring the costs of providing
5 universal services, exclusively for the purpose of determining high-cost
6 funding levels under this subdivision (e)(6), eligible telecommunications
7 carriers shall have the following options:

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

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

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

18 (7) In calculating revenue requirements only for the purpose of
19 establishing high-cost funding needs from the AUSF, the commission shall not
20 fix depreciation rates. However, the commission may make reasonable
21 adjustments to depreciation expense if an eligible telecommunications
22 carrier's composite depreciation annual accrual rate is greater than the
23 weighted average of composite rates for similar plant and equipment of all
24 other telecommunications providers providing comparable services in the
25 state. In that case, the commission may adjust depreciation expenses of the
26 eligible telecommunications carrier to levels that would not exceed fifteen
27 percent (15%) above a composite accrual rate comparable to the statewide
28 weighted average; and

29 (8)(A)(i) The commission shall establish by regulation a grant
30 program to make grants available to eligible telecommunications carriers for
31 the extension of facilities to citizens unserved by wire line services of an
32 eligible telecommunications carrier. Grants may be requested by an eligible
33 telecommunications carrier, unserved citizens, or both.

34 (ii) The commission shall delegate to a trustee the
35 administration, collection, and distribution of the Extension of Facilities
36 Fund in accordance with the rules and procedures established by the

1 commission. The trustee shall enforce and implement all rules and directives
2 governing the funding, collection, and eligibility for the fund.

3 (B)(i) In establishing regulations for the grant program,
4 the commission shall consider demonstrated need, the length of time the
5 citizens have been unserved, the households affected, the best use of the
6 funds, and the overall need for extensions throughout the state.

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

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

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

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

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

22
23 SECTION 8. Arkansas Code § 23-17-409(a), authorizing competing local
24 exchange carriers, is amended to read as follows:

25 (a)(1)(A) Consistent with the federal act and the provisions of § 23-
26 17-410, the Arkansas Public Service Commission is authorized to grant
27 certificates of convenience and necessity to telecommunications providers
28 authorizing them to provide telecommunications services including basic local
29 exchange service or switched-access service, or both, to an incumbent local
30 exchange carrier's local exchange area if and to the extent that the
31 applications otherwise comply with state law, designate the geographic areas
32 proposed to be served by the applicants, and the applicants demonstrate they
33 possess the financial, technical, and managerial capacity to provide the
34 competing services.

35 (B) No telecommunications provider shall operate as a CLEC
36 in this state without first obtaining from the commission a certificate of

1 public convenience and necessity.

2 (2) Competing local exchange carriers shall be required to
3 maintain a current tariff or price list with the commission and to make
4 prices and terms of service available for public inspection.

5 (3) Retail prices of competing local exchange carriers shall not
6 require prior review or approval by the commission.

7
8 SECTION 9. Arkansas Code, Title 23, Chapter 17, is amended to add new
9 sections to read as follows:

10 23-17-414. Arkansas Intrastate Carrier Common Line.

11 (a)(1) Beginning January 1, 2004, except as provided in § 23-17-
12 404(e)(4)(D)(i)(b), intrastate carrier common line charges billed to ILECs
13 and underlying carriers shall be determined at the rate of one and sixty-five
14 hundredths cents (1.65¢) per intrastate access minute.

15 (2) The carrier common line charge is not a tax and is not
16 affected by state laws governing taxation.

17 (b)(1) Each underlying carrier's monthly payment to the AICCLP shall
18 include the sum of the underlying carrier's share of the AICCLP's net revenue
19 requirement for the remaining incumbent local exchange carriers, the
20 underlying carrier's portion of the Arkansas Calling Plan Fund and Extension
21 of Telecommunications Facilities Fund expense, and the AICCLP administrative
22 expenses.

23 (2) Each underlying carrier's monthly payment to the AICCLP
24 shall be based upon the underlying carrier's proportionate share of Arkansas
25 intrastate telecommunications services revenues and special intrastate ILEC
26 revenues to the total Arkansas intrastate telecommunications services revenue
27 and special intrastate ILEC revenues of all underlying carriers.

28 (3)(A)(i) An exiting ILEC that experiences a fixed carrier
29 common line revenue shortfall for its carrier common line net revenue
30 requirements may recover the shortfall through increases in local rates based
31 on the total customer access base of the exiting company.

32 (ii) AICCLP members shall recover their carrier
33 common line net revenue requirement by AICCLP rate adjustment and through the
34 AICCLP.

35 (iii) If the fixed carrier common line revenue
36 shortfall is distributed throughout the total customer access base, then each

1 independent ILEC within the total customer access base shall receive from the
2 distribution its share of the shortfall.

3 (B) An exiting ILEC that seeks to recover its carrier
4 common line revenue shortfall is not required to recover equally from each
5 class of customers.

6 (C)(i) An exiting ILEC may recover its fixed carrier
7 common line revenue shortfall from any intrastate rate other than access
8 charges.

9 (ii) Any AICCLP member may recover its AICCLP rate
10 adjustment from any intrastate rate other than access charges.

11 (D) An exiting ILEC that reduces its carrier common line
12 charge of one and sixty-five hundredths cents (1.65¢) may recover the
13 shortfall through increases in local rates.

14 (4) This section shall not limit a carrier's ability to adjust
15 its rates under §§ 23-17-406, 23-17-407, or 23-17-408.

16 (5) This section shall not limit a carrier's ability to increase
17 its local rates under § 23-17-412.

18 (6) Any AICCLP rate adjustment charge shall not limit an AICCLP
19 member's ability to adjust rates under § 23-17-412.

20 (7)(A) No toll reseller shall be required to pay to an ILEC or
21 to the AICCLP any portion of an underlying carrier's common line net revenue
22 obligation unless the ILEC is the toll reseller's underlying carrier.

23 (B) If an ILEC is a toll reseller's underlying carrier,
24 then unless agreed otherwise, between the toll reseller and the ILEC, the
25 toll reseller shall report the special intrastate ILEC revenue to the
26 administrator and shall pay all amounts due the AICCLP for the revenue.

27 (c)(1) The Arkansas Public Service Commission shall adopt all rules
28 relating to the membership, operation, management, and administration of the
29 AICCLP as it will be constituted after December 31, 2003.

30 (2) The commission may adopt rules under subdivision (c)(1) of
31 this section after it appoints the members of the Arkansas Intrastate Carrier
32 Common Line Pool Advisory Procedural Board and selects an AICCLP
33 administrator.

34 (d) The commission may terminate a carrier's certificate of
35 convenience and necessity if the carrier fails to comply with AICCLP
36 procedures or fails to make a payment due under this section.

1 (e)(1) The commission shall choose an AICCLP administrator on or
2 before June 1, 2003.

3 (2) The administrator shall manage the collection and
4 distribution of the carrier common line net revenue requirements, in
5 accordance with the rules and procedures established by the commission and
6 consistent with this section.

7 (3) The administrator shall enforce and implement all rules and
8 directives governing the funding, collection, and eligibility for the AICCLP
9 membership.

10 (4) The administrator shall determine the total monthly amount
11 due to the AICCLP, from AICCLP members, exiting ILECs, and underlying
12 carriers, based upon the sum of the monthly carrier common line net revenue
13 requirement of AICCLP members, funding requirements for the Arkansas Calling
14 Plan Fund and the Extension of Telecommunications Facilities Fund, and the
15 AICCLP administrative fees.

16 (5) The administrator shall provide monthly and annual reports
17 to the commission concerning the operation of the AICCLP.

18 (6) Any information considered proprietary by the administrator
19 shall be treated as confidential unless the commission determines that the
20 administrator erred in the determination.

21 (7) The AICCLP administrator and the Arkansas Universal Services
22 Fund administrator may share confidential information to determine the
23 amounts due or the accuracy of information submitted by ILECs and underlying
24 carriers.

25 (8)(A) Any ILEC that was designated as a non-tier one ILEC under
26 Act 77 of 1997, as of December 31, 1997, and had fewer than fifty thousand
27 (50,000) access lines as of December 31, 1997, shall be eligible to be a
28 member of the AICCLP beginning January 1, 2004.

29 (B)(i) The maximum that a non-tier one company under
30 subdivision (e)(8)(A) of this section may draw, based on its total customer
31 access base, shall be one million three hundred thousand dollars (\$1,300,000)
32 annually.

33 (ii) If a non-tier one company under subdivision
34 (e)(8)(A) of this section is entitled to receive more than one million three
35 hundred thousand dollars (\$1,300,000) annually, then the administrator shall
36 assess a prorated charge to each ILEC associated with the total customer

1 access base that is based upon the ILEC's proportionate share of the total
2 net revenue requirement of all ILECs within the total customer base.

3 (f)(1) Beginning January 1, 2004, no ILEC that had a total customer
4 access base of more than fifty thousand (50,000) access lines as of December
5 31, 1997, shall be a member of AICCLP.

6 (2) An ILEC that had a total customer access base of fifty
7 thousand (50,000) or fewer access lines as of December 31, 1997, may, after
8 sixty (60) days notice to the commission and the administrator, terminate its
9 membership in the AICCLP, and may not thereafter again become a member of the
10 AICCLP.

11 (g)(1) If an ILEC terminates its membership in the AICCLP, after
12 January 1, 2004, then its total customer access base must exit the pool as a
13 single unit.

14 (2) If an ILEC terminates its membership in the AICCLP, after
15 January 1, 2004, then its fixed carrier common line revenue shortfall shall
16 be calculated using relevant data from the data development period identified
17 in subdivision (h)(4)(B)(ii) of this section.

18 (h)(1) The administrator shall determine the amounts to be paid to
19 AICCLP members on a monthly basis and shall determine any fixed or varying
20 amounts due the pool from AICCLP members, exiting ILECs, and underlying
21 carriers.

22 (2) The administrator shall provide notice to AICCLP members,
23 other ILECs, and underlying carriers concerning calculations related to each
24 entity and shall bill all carriers for any amounts due the pool.

25 (3) The administrator shall use the appropriate data development
26 period to determine the calculations for AICCLP members' carrier common line
27 net revenue requirement.

28 (4)(A) For each ILEC exiting the pool on December 31, 2003, the
29 administrator shall use the appropriate data to determine the payment that
30 the exiting ILECs shall pay the pool to fund their portion of the Arkansas
31 Calling Plan Fund and Extension of Telecommunications Facilities Fund.

32 (B)(i) The data development period for all ILECs, except
33 for AICCLP members exiting the pool after January 1, 2004, shall be the
34 ILECs' billing months of June, July, and August 2003.

35 (ii) If an AICCLP member exits the AICCLP after
36 January 1, 2004, its data development period to determine the ILEC's fixed

1 carrier common line revenue shortfall shall be the three-month period
2 immediately preceding its exit.

3 (i) No later than the twenty-second day or the next business day
4 thereafter of July, 2003, if the twenty-second day falls on a weekend or
5 holiday; and no later than the twenty-second day, or the next business day of
6 each month thereafter, if the twenty-second day falls on a weekend or
7 holiday, each underlying carrier and AICCLP member shall report to the
8 administrator its previous month's data necessary for AICCLP calculations.

9 (j)(1) On December 31, 2003, and the last business day of each month
10 thereafter, the administrator shall cause notice to be sent to each
11 underlying carrier, AICCLP member, and exiting ILEC the amount due, based on
12 the previous month's data as submitted to the administrator.

13 (2) Each underlying carrier, AICCLP member, and exiting ILEC
14 shall remit payment due under subdivision (j)(1) of this section to the
15 administrator by no later than the last business day of the following month.

16 (3) The administrator shall make all reasonable efforts to
17 ensure that AICCLP members receive payment of their monthly net carrier
18 common line revenue requirement by February 10, 2004, and by the tenth day of
19 each month thereafter.

20
21 23-17-415. Arkansas Intrastate Carrier Common Line Pool Advisory
22 Procedural Board.

23 (a) The Arkansas Intrastate Carrier Common Line Pool Advisory
24 Procedural Board is not a government entity under Arkansas law and shall not
25 be considered a government entity for any purpose.

26 (b) The Arkansas Public Service Commission shall adopt all rules
27 relating to the operation of the board that are reasonably necessary to
28 implement this section.

29 (c) The board shall serve in an advisory capacity and may:

30 (1) Propose tariffs and rules to the commission;

31 (2) Propose amendments to its procedures for the operation,
32 administration, and audit of the AICCLP;

33 (3) Advise the commission on other matters reasonably related to
34 the operation of the AICCLP and the board;

35 (4) Meet by teleconference or by other technological means; and

36 (5) Provide recommendations and reports to the commission.

1 (d) The board shall be composed of two (2) representatives of
2 underlying carriers and five (5) representatives of ILECs who are members of
3 the AICCLP as follows:

4 (1) The two (2) underlying carriers' representatives shall be
5 the first two (2) willing representatives of the largest underlying carriers,
6 as determined by the AICCLP administrator, based upon the carriers' portion
7 of the Arkansas intrastate telecommunications service revenues and special
8 intrastate ILEC revenues;

9 (2)(A) The commission shall determine the appropriate underlying
10 carrier and ILEC member representatives on or before June 1 of each year.

11 (B) The commission shall approve any ILEC representative
12 if the proposed representative's name is submitted by a two-thirds (2/3)
13 majority of all ILEC members of the AICCLP for any open ILEC position on the
14 board; and

15 (3)(A) The five (5) ILEC representatives of AICCLP members shall
16 be willing representatives of ILECs who are members of the AICCLP.

17 (B)(i) The five (5) ILEC representatives will serve
18 staggered five (5) year terms with the terms to be determined by lot at the
19 first meeting of the board.

20 (ii) A representative may serve unlimited terms.

21 (C) No ILEC or underlying carrier may be represented by
22 more than one (1) board member.

23 (e) The Arkansas Intrastate Carrier Common Line Pool Advisory
24 Procedural Board shall begin operations as of the date the commission
25 appoints the first administrator.

26
27
28 SECTION 10. EMERGENCY CLAUSE. It is found and determined by the
29 General Assembly of the State of Arkansas, that lowering and stabilizing the
30 carrier common line rate will promote lower telephone toll rates for Arkansas
31 residents and will encourage economic development; that this act is
32 immediately necessary to implement the administrative changes necessary to
33 reduce the carrier common line rate by January 1, 2004; and that any delay in
34 the effective date of this act could create an undue burden upon Arkansas
35 citizens and could work irreparable harm upon the efficient provision of
36 telecommunications services throughout Arkansas. Therefore, an emergency is

1 declared to exist and this act being immediately necessary for the
2 preservation of the public peace, health, and safety shall become effective
3 on:

- 4 (1) The date of its approval by the Governor;
5 (2) If the bill is neither approved nor vetoed by the Governor,
6 the expiration of the period of time during which the Governor may veto the
7 bill; or
8 (3) If the bill is vetoed by the Governor and the veto is
9 overridden, the date the last house overrides the veto.

10 /s/ Gill espie

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13 APPROVED: 4/22/2003
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