

**Hall of the House of Representatives**  
84th General Assembly - Regular Session, 2003  
**Amendment Form**

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**Subtitle of House Bill No. 2817**

"AN ACT TO AMEND THE TELECOMMUNICATIONS REGULATORY REFORM ACT OF  
1997."

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**Amendment No. 1 to House Bill No. 2817.**

Amend House Bill No. 2817 as originally introduced:

Page 1, delete line 10 and substitute the following:

"REFORM ACT OF 1997; TO RESTRUCTURE THE ARKANSAS INTRASTATE CARRIER COMMON LINE POOL TO PROMOTE LOWER INTRASTATE TOLL RATES BY STABILIZING THE CARRIER COMMON LINE RATE; AND FOR OTHER PURPOSES."

AND

Page 1, delete lines 13 and 14 and substitute the following:

"TO RESTRUCTURE THE ARKANSAS INTRASTATE CARRIER COMMON LINE POOL TO PROMOTE LOWER INTRASTATE TOLL RATES."

AND

Delete everything after the enactment clause and substitute the following:

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

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

SECTION 2. Arkansas Code § 23-17-403(16), concerning the definition of incumbent local exchange carrier under the Telecommunications Regulatory Reform Act of 1997, is amended to read as follows:

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



SECTION 3. Arkansas Code § 23-17-403(19), concerning the definition of local exchange carrier under the Telecommunications Regulatory Reform Act of 1997, is amended to read as follows:

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

SECTION 4. Arkansas Code § 23-17-403, concerning definitions under the Telecommunications Regulatory Reform Act of 1997, is amended to add additional subdivisions to read as follows:

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

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

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

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

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

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

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

(31) "Arkansas intrastate telecommunications services revenues" means the revenues of all carriers that are not ILECs, which are derived from end-users for telecommunications within Arkansas and telecommunications services provided within Arkansas, including messages that are switched or otherwise temporarily transported outside of Arkansas in the process of delivering the message within Arkansas;

(32) "Carrier common line net revenue requirement" means the monthly variable funding requirement of an AICCLP member, which is calculated as the sum of the member's intrastate carrier common line revenue requirement, the member's terminating carrier common line expense, based on its per minute

terminations on other ILECs, the member's Arkansas Calling Plan Fund and Extension of Telecommunications Facilities Fund expense, and the member's share of AICCLP administrative fees, minus the sum of the carrier common line revenue, based on per minute terminations received from other ILECs, carrier common line revenue received from underlying carriers for originating and terminating access minutes, the AICCLP rate adjustment, and the fixed ILEC retail billed minutes of use expense based on the data development period determination of average monthly retail billed minutes of use expense of the member;

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. Arkansas Code § 23-17-404(e), concerning the Arkansas Universal Services Fund and the Arkansas Intrastate Carrier Common Line Pool, is amended to read as follows:

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

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

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

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

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

(A) A rate case proceeding or earnings investigation or analysis shall not be required or conducted in connection with the determination or implementation of increases in universal service rates associated with commission use of a threshold rate, and the increases shall not be included in the calculation of the basic local exchange service rate

increase limits specified in §§ 23-17-407 and 23-17-412; and

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

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

(B)(i)(a) Through December 31, 2004, Any any rural telephone company, excluding tier one companies, that, as a result of changes caused by new or existing federal or state regulatory or statutory directives, experiences a change in intrastate or interstate switched-access services revenues, or in net revenue received from the intrastate Carrier Common Line Pool interstate access charge pools, or the Arkansas IntraLATA Toll Pool, shall be allowed to recover the reductions from the AUSF or through modifications in rates applicable to basic local exchange service. The recovered amounts shall be limited to the net reduction in revenues from all sources of support listed in subdivision (e)(4)(A) of this section and this subdivision (e)(4)(B).

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

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

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

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

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

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

carrier common line net revenue requirement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Amounts paid by ILECs to fund either the Extension of Telecommunications Facilities Fund or the Arkansas Calling Plan

Fund created by this section shall not be recoverable from the Arkansas Universal Service Fund (AUSF).

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

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

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

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

(b) In addition, if an eligible telecommunications carrier was financially harmed by a court-ordered change in the test period applicable for the AUSF funding and an alternate test period was used by the eligible telecommunications carrier for more than one (1) year, then the test period for the harmed eligible telecommunications carrier shall remain the test period originally set by the commission.

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

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

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

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

(5) All eligible telecommunications carriers may request high-cost funding from the AUSF as necessary in the future to maintain rates for universal services that are reasonable, affordable, and comparable between urban and rural areas. Except as otherwise provided in this subchapter, the funding shall be based on all net investment, including embedded investment, and expenses incurred by the eligible telecommunications carriers in the



provision of universal service. High-cost funding shall be provided to eligible telecommunications carriers as needed for the following:

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

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

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

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

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

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

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

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

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

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

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

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

(C) The plan shall be funded by customer contributions and

by the Arkansas Calling Plan Fund established by subdivision (e)(4)(D) of this section.

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

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

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

SECTION 6. Arkansas Code, Title 23, Chapter 17, is amended to add new sections to read as follows:

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

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

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

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

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

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

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

(iii) If the fixed carrier common line revenue shortfall is distributed throughout the total customer access base, then each independent ILEC within the total customer access base shall receive from the distribution its share of the shortfall.

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

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

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

(D) An exiting ILEC that reduces its carrier common line

charge of one and sixty-five hundredths cents (1.65¢) may recover the shortfall through increases in local rates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8)(A) Any ILEC that was designated as a non-tier one ILEC under Act 77 of 1997, as of December 31, 1997, and had fewer than fifty thousand (50,000) access lines as of December 31, 1997, shall be eligible to be a

member of the AICCLP beginning January 1, 2004.

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

(ii) If a non-tier one company under subdivision (e)(8)(A) of this section is entitled to receive more than one million three hundred thousand dollars (\$1,300,000) annually, then the administrator shall assess a prorated charge to each ILEC associated with the total customer access base that is based upon the ILEC's proportionate share of the total net revenue requirement of all ILECs within the total customer base.

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

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

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

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

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

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

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

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

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

(ii) If an AICCLP member exits the AICCLP after January 1, 2004, its data development period to determine the ILEC's fixed carrier common line revenue shortfall shall be the three-month period immediately preceding its exit.

(i) No later than the twenty-second day or the next business day thereafter of July, 2003, if the twenty-second day falls on a weekend or holiday; and no later than the twenty-second day, or the next business day of each month thereafter, if the twenty-second day falls on a weekend or holiday, each underlying carrier and AICCLP member shall report to the

administrator its previous month's data necessary for AICCLP calculations.

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

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

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

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

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

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

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

(1) Propose tariffs and rules to the commission;

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

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

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

(5) Provide recommendations and reports to the commission.

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

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

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

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

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

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

(ii) A representative may serve unlimited terms.

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

(e) The Arkansas Intrastate Carrier Common Line Pool Advisory

Procedural Board shall begin operations as of the date the commission appoints the first administrator.

SECTION 8. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas, that lowering and stabilizing the carrier common line rate will promote lower telephone toll rates for Arkansas residents and will encourage economic development; that this act is immediately necessary to implement the administrative changes necessary to reduce the carrier common line rate by January 1, 2004; and that any delay in the effective date of this act could create an undue burden upon Arkansas citizens and could work irreparable harm upon the efficient provision of telecommunications services throughout Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

The Amendment was read \_\_\_\_\_  
By: Representative Gillespie  
AAF/CDS - 032820030746  
CDS460

\_\_\_\_\_  
Chief Clerk