

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

A Bill

HOUSE BILL 2817

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

For An Act To Be Entitled

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.

Subtitle

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

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:



03102003AAF1256.CDS157

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

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

32 (32) "Carrier common line net revenue requirement" means the monthly
33 variable funding requirement of an AICCLP member, which is calculated as the
34 sum of the member's intrastate carrier common line revenue requirement, the
35 member's terminating carrier common line expense, based on its per minute
36 terminations on other ILECs, the member's Arkansas Calling Plan Fund and

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

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

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

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

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

19 (35) "Fixed carrier common line revenue shortfall" means the total
20 annual funding requirement of an ILEC that must exit the AICCLP under § 23-
21 17-414(f)(1), which is calculated as the sum of an ILEC's intrastate carrier
22 common line revenue requirement, the ILEC's terminating carrier common line
23 expense, based on its per minute terminations on other ILECs, the ILECs
24 Arkansas Calling Plan Fund and Extension of Telecommunications Facilities
25 Fund expense; minus the sum of the carrier common line revenue, based on per
26 minute terminations received from other ILECs, carrier common line revenue
27 received from underlying carriers for originating and terminating access
28 minutes, and the fixed ILEC retail billed minutes of use expense based on the
29 data development period determination of average monthly retail billed
30 minutes of use expense of the ILEC;

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

1 reseller of an underlying carrier that is an ILEC;

2 (37) "ILEC Arkansas Calling Plan Fund and Extension of
3 Telecommunications Facilities Fund expense" means the charge assessed against
4 an ILEC in proportion to the AICCLP credits that were eliminated by § 23-17-
5 404(e)(4)(D)(iv)(b);

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

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

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

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

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

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

28
29 SECTION 7. Arkansas Code § 23-17-404(e), concerning the Arkansas
30 Universal Services Fund and the Arkansas Intrastate Carrier Common Line Pool,
31 is amended to read as follows:

32 (e) After reasonable notice and hearing, the commission shall
33 establish rules and procedures necessary to implement the AUSF. The
34 commission shall implement the AUSF and make AUSF funds available to eligible
35 telecommunications carriers no later than ninety (90) days following the
36 later of February 4, 1997, or the effective date of a Federal Communications

1 Commission order pursuant to 47 U.S.C. § 254 that approves, establishes, or
2 modifies interstate universal service funding. Prior to the implementation
3 and availability of funds from the AUSF, the commission shall not require any
4 local exchange carrier to reduce rates for intrastate switched-access
5 services or require any local exchange carrier to reduce its net revenue
6 received from the Arkansas IntraLATA Toll Pool (AITP). In establishing and
7 implementing the AUSF, the commission shall adhere to the following
8 instructions and guidelines:

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

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

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

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

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

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

36 (4)(A) In the event of a Federal Communications Commission

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

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

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

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

35 (b) No ILEC shall receive reimbursement from
36 the AUSF for losses resulting from exiting the AICCLP or for a reduction of

1 its carrier common line net revenue requirement unless:

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (b) A maximum of five hundred thousand dollars
32 (\$500,000) per year of AICCLP funds shall be allocated to fund the Extension
33 of Telecommunications Facilities Fund to assist in the extension of
34 telecommunications facilities to citizens not served by the wireline
35 facilities of an eligible telecommunications carrier.

36 (iii)(a)(1) There is also created an AICCLP

1 allocation to be known as the "Arkansas Calling Plan Fund".

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

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

12 (iv)(a) ~~The~~ Through December 31, 2003, the Extension
13 of Telecommunications Facilities Fund and the Arkansas Calling Plan Fund will
14 be funded by the AICCLP assessing one-half (1/2) of the fund to be paid by
15 incumbent local exchange carriers (ILECs) and one-half (1/2) of the fund to
16 be paid by all other telecommunications providers reporting intrastate retail
17 billed minutes of use to the AICCLP. Beginning January 1, 2004, the
18 Extension of Telecommunications Facilities Fund and the Arkansas Calling Plan
19 Fund will be paid by the AICCLP members, exiting ILECs, and underlying
20 carriers as follows:

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

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

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

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

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

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

12 (2) The first four million dollars
13 (\$4,000,000) shall be allocated monthly as collected to assure that the AUSF
14 has adequate funds to compensate any retroactive claims that may be made
15 against the AUSF due to the change in the test period resulting from the
16 decision in *AT&T Communications of the S.W., Inc. v. Arkansas Pub. Serv.*
17 *Comm'n*, 344 Ark. 188, 40 S.W.3d 273 (2001).

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

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

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

34 (c)(1) Unless an audit is requested prior to
35 February 28, 2004, by a two-thirds (2/3) vote of the participating carriers
36 of the AICCLP as it is constituted prior to January 1, 2004, then charges

1 determined and billed through December 2003 shall be considered final and not
2 subject to audit.

3 (2) The administrator of the AICCLP as
4 it existed prior to January 1, 2004, may supervise any audit that is
5 requested and may further take any action deemed reasonable or necessary to
6 finalize the winding up process of the AICCLP as it existed prior to January
7 1, 2004;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (ii) The commission may require each potential

1 customer to be served by the extension of facilities to pay up to two hundred
2 fifty dollars (\$250) of the cost of extending facilities.

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

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

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

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

15
16 SECTION 8. Arkansas Code § 23-17-409(a), authorizing competing local
17 exchange carriers, is amended to read as follows:

18 (a)(1)(A) Consistent with the federal act and the provisions of § 23-
19 17-410, the Arkansas Public Service Commission is authorized to grant
20 certificates of convenience and necessity to telecommunications providers
21 authorizing them to provide telecommunications services including basic local
22 exchange service or switched-access service, or both, to an incumbent local
23 exchange carrier's local exchange area if and to the extent that the
24 applications otherwise comply with state law, designate the geographic areas
25 proposed to be served by the applicants, and the applicants demonstrate they
26 possess the financial, technical, and managerial capacity to provide the
27 competing services.

28 (B) No telecommunications provider shall operate as a CLEC
29 in this state without first obtaining from the commission a certificate of
30 public convenience and necessity.

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

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

36

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

3 23-17-414. Arkansas Intrastate Carrier Common Line.

4 (a)(1) Beginning January 1, 2004, except as provided in § 23-17-
5 404(e)(4)(D)(i)(b), intrastate carrier common line charges billed to ILECs
6 and underlying carriers shall be determined at the rate of one and sixty-five
7 hundredths cents (1.65¢) per intrastate access minute.

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

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

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

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

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

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

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

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

1 charges.

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

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

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

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

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

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

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

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

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

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

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

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

36 (3) The administrator shall enforce and implement all rules and

1 directives governing the funding, collection, and eligibility for the AICCLP
2 membership.

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

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

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

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

18 (8)(A) Any ILEC that was designated as a non-tier one ILEC under
19 Act 77 of 1997, as of December 31, 1997, and had fewer than fifty thousand
20 (50,000) access lines as of December 31, 1997, shall be eligible to be a
21 member of the AICCLP beginning January 1, 2004.

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

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

32 (f)(1) Beginning January 1, 2004, no ILEC that had a total customer
33 access base of more than fifty thousand (50,000) access lines as of December
34 31, 1997, shall be a member of AICCLP.

35 (2) An ILEC that had a total customer access base of fifty
36 thousand (50,000) or fewer access lines as of December 31, 1997, may, after

1 sixty (60) days notice to the commission and the administrator, terminate its
2 membership in the AICCLP, and may not thereafter again become a member of the
3 AICCLP.

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

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

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

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

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

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

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

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

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

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

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

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

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

13
14 23-17-415. Arkansas Intrastate Carrier Common Line Pool Advisory
15 Procedural Board.

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

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

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

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

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

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

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

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

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

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

1 intrastate ILEC revenues;

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

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

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

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

13 (ii) A representative may serve unlimited terms.

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

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

19
20
21 SECTION 10. EMERGENCY CLAUSE. It is found and determined by the
22 General Assembly of the State of Arkansas, that lowering and stabilizing the
23 carrier common line rate will promote lower telephone toll rates for Arkansas
24 residents and will encourage economic development; that this act is
25 immediately necessary to implement the administrative changes necessary to
26 reduce the carrier common line rate by January 1, 2004; and that any delay in
27 the effective date of this act could create an undue burden upon Arkansas
28 citizens and could work irreparable harm upon the efficient provision of
29 telecommunications services throughout Arkansas. Therefore, an emergency is
30 declared to exist and this act being immediately necessary for the
31 preservation of the public peace, health, and safety shall become effective
32 on:

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

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

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

3 /s/ Gillespie, et al

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36