

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 86th General Assembly
3 Regular Session, 2007

A Bill

SENATE BILL 780

4
5 By: Senator Horn
6
7

For An Act To Be Entitled

8
9 AN ACT TO PHASE OUT THE ARKANSAS UNIVERSAL
10 SERVICE FUND; TO ESTABLISH THE ARKANSAS HIGH COST
11 FUND; TO PROVIDE FOR THE ADMINISTRATIVE
12 TRANSITION FROM THE ARKANSAS UNIVERSAL SERVICE
13 FUND TO THE ARKANSAS HIGH COST FUND; AND FOR
14 OTHER PURPOSES.

Subtitle

15
16
17 TO PHASE OUT THE ARKANSAS UNIVERSAL
18 SERVICE FUND; TO ESTABLISH THE ARKANSAS
19 HIGH COST FUND; AND TO PROVIDE FOR THE
20 ADMINISTRATIVE TRANSITION FROM THE
21 ARKANSAS UNIVERSAL SERVICE FUND TO THE
22 ARKANSAS HIGH COST FUND.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26
27 SECTION 1. Legislative findings.

28 The General Assembly finds that:

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

31 (2) It is administratively efficient to use financial data
32 submitted by eligible telecommunications companies to federal agencies, made
33 under penalty of law, and when appropriate, cost proxies, for the high-cost
34 support mechanism, to be called the "Arkansas High Cost Fund", thereby
35 eliminating the need for extensive financial review and the high
36 administrative costs created by such reviews;



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

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

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

12
 13 SECTION 2. Arkansas Code § 23-17-403, concerning the definition of
 14 "total customer access base", is amended to read as follows:

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

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

22
 23 SECTION 3. Arkansas Code § 23-17-403, concerning definitions, is
 24 amended to add additional subdivisions to read as follows:

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

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

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

35 (47) "Study area" means a geographic area designated by the FCC
 36 and used by NECA or USAC for calculation of cost per loop within the

1 geographic area's boundaries for federal high cost loop support;

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

6 (49) "2007 Revenue Base" means the gross revenue an ETC was
 7 eligible to receive from the AUSF during the first six months of 2007
 8 annualized without reduction for an overpayment that occurred in 2006;

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

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

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

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

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

22
 23 SECTION 4. Arkansas Code § 23-17-404 is amended to read as follows:

24 23-17-404. Preservation and promotion of universal service.

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

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

36 (3) The ~~AUSF~~ AHCF shall be designed to provide predictable,

1 sufficient, and sustainable funding to eligible telecommunications carriers
2 serving rural or high-cost areas of the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (a) Eligibility for support;

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

24 (c) The uncapped amount of support available;

25 and

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

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

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

35 (d)(1)(a) The ~~AUSF~~ AHCF administrator periodically shall establish and
 36 notify each telecommunications provider of the ~~AUSF~~ AHCF charge levels

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

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

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

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

36 (3) The ~~AUSF~~ AHCF charge shall not be subject to any state or

1 local tax or franchise fees.

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

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

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

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

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

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

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

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

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

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

35 (B) ~~The commission may not require a reduction in~~
 36 ~~universal service rates to a threshold rate unless any associated decrease in~~

1 revenues is allowed to be concurrently recovered from the AUSF;

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

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

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

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

35 ~~(ii)(a) This subdivision (c)(4)(B)(ii) shall become~~
 36 ~~effective on January 1, 2004.~~

1 ~~twelve (12) months preceding the required regulatory or statutory changes;~~
 2 ~~and~~

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

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

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

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

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

36 (b) A maximum of five hundred thousand

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

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

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

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

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

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

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

34 (3) Each underlying carrier shall
35 continue to remit to the administrator on a monthly basis its portion of the
36 underlying carrier funding requirement of the Arkansas Calling Plan Fund and

1 Extension of Telecommunications Facilities Fund, based upon the underlying
 2 carrier's share of Arkansas intrastate telecommunications services revenues
 3 and special intrastate ILEC revenues proportionate to the total Arkansas
 4 intrastate telecommunications services revenues and special intrastate ILEC
 5 revenues of all underlying carriers.

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

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

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

17 (2) ~~The first four million dollars~~
 18 ~~(\$4,000,000) shall be allocated monthly as collected to assure that the AUSF~~
 19 ~~has adequate funds to compensate any retroactive claims that may be made~~
 20 ~~against the AUSF due to the change in the test period resulting from the~~
 21 ~~decision in AT&T Communications of the S.W., Inc. v. Arkansas Pub. Serv.~~
 22 ~~Comm'n, 344 Ark. 188, 40 S.W.3d 273 (2001).~~

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

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

33 (b) ~~In addition, if an eligible~~
 34 ~~telecommunications carrier was financially harmed by a court-ordered change~~
 35 ~~in the test period applicable for the AUSF funding and an alternate test~~
 36 ~~period was used by the eligible telecommunications carrier for more than one~~

1 ~~(1) year, then the test period for the harmed eligible telecommunications~~
2 ~~carrier shall remain the test period originally set by the commission.~~

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

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

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

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

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

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

1 financial data submitted to the administrator to establish an alternate cost
2 per loop shall be treated as confidential;

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

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

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

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

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

33 (A) The AHCF administrator shall
34 use the most current trued up Local Switching Support Amount that has been
35 calculated by NECA and submitted to USAC annually for each ETC within its
36 size group. For each ETC that does not have an individually calculated Local

1 Switching Support Amount, the AHCF administrator shall calculate a Local
2 Switching Support Amount by using an average of all ETCs within its size
3 group that have an established Local Switching Support Amount;

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

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

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

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

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

34 (b)(2) If a request for support is made by an
35 ETC that does not have switching support calculated by NECA, the commission
36 shall develop a proxy method to be used to calculate such an ETC's Local

1 Switching Support. The sum of the calculation for each ETC from the proxy
2 method, if positive, shall be the ETC's Local Switching Support Element.

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

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

26 (iii)(a) For ETCs with five hundred thousand
27 (500,000) lines or more, support will be determined using the following
28 procedure:

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

35 (2) The AHCF administrator then shall
36 multiply the available high-cost support for each eligible wire center by the

1 number of lines reported to the AHCF administrator by the carrier as of
2 December 31 of the preceding year. Eligible wire centers shall be wire
3 centers with three thousand (3,000) access lines or less as of the effective
4 date of this act of 2007; and

5 (3) The total of the calculations by the
6 AHCF administrator for all eligible wire centers shall be the high-cost
7 support available to the ETC, as limited by cap restrictions.

8 (b) The support provided by the AHCF shall be
9 calculated as an annual amount paid in equal monthly payments and
10 recalculated annually by the AHCF administrator in compliance with this
11 section and the commission's rules and procedures.

12 (iv) In the event that an element used to determine
13 AHCF support is materially changed or eliminated, the AHCF administrator
14 shall use an equivalent or similar element in calculating the AHCF support in
15 subdivisions (e)(4)(C)(ii) and (e)(4)(C)(iii) of this section.

16 (v) The AHCF shall be phased-in over a five-year
17 transition period. The phase-in shall transition from the AUSF Revenue
18 replacement mechanism to the AHCF high-cost support mechanism for ETCs with a
19 total customer access base of under fifteen thousand (15,000) access lines.
20 ETCs with a total customer access base of over fifteen thousand (15,000)
21 access lines shall not participate in the transition or in the funding of the
22 transition, and any calculations related to the transition apply only to the
23 size group with a total customer access base of under fifteen thousand
24 (15,000) access lines. The AHCF administrator shall apply the AHCF
25 transition period for the ETCs as follows:

26 (a) In Year One of the transition period, the
27 administrator shall first calculate the total support due an ETC from the
28 AHCF. If the AHCF calculation for the ETC exceeds the revenue the ETC
29 received from the AUSF in the 2007 Revenue Base, the AHCF calculation shall
30 be the ETC's uncapped unreduced AHCF support. If the ETC's calculated AHCF
31 support is less than the ETC's 2007 Revenue Base, then the ETC's AHCF
32 uncapped support in Year One shall be the ETC's AHCF calculated support plus
33 eighty-nine percent (89%) of the difference between the ETC's 2007 Revenue
34 Base and the ETC's calculated AHCF support;

35 (b) In Year Two of the transition period, the
36 administrator shall first calculate the total support due an ETC from the

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

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

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

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

35 (f) After the five-year transition period the
36 AHCF administrator shall calculate each ETC's support by first calculating

1 each ETC's uncapped AHCF support. If the total calculated support to all
2 ETCs within a size group is less than the capped amount of the size group's
3 part of the total AHCF, each ETC within the size group shall be entitled to
4 its total calculated AHCF support.

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

11 (1) One million dollars (\$1,000,000) for
12 Year One;

13 (2) Seven hundred fifty thousand dollars
14 (\$750,000) for Year Two;

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

17 (4) Two hundred fifty thousand dollars
18 (\$250,000) for Year Four; and

19 (5) Two hundred fifty thousand dollars
20 (\$250,000) for Year Five.

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

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

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

32 (c) If the surplus does not fully fund the
33 transition costs, then each ETC participating in the size group with a total
34 customer access base of under fifteen thousand (15,000) access lines that is
35 not receiving transition funds shall pay a prorata share of the remaining
36 transition costs based upon a formula using total increase in support

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

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

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

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

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

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

1 capped AHCF amount.

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

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

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

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

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

34 ~~(5) All eligible telecommunications carriers may request high-cost~~
35 ~~funding from the AUSF as necessary in the future to maintain rates for~~
36 ~~universal services that are reasonable, affordable, and comparable between~~

1 urban and rural areas. Except as otherwise provided in this subchapter, the
2 funding shall be based on all net investment, including embedded investment,
3 and expenses incurred by the eligible telecommunications carriers in the
4 provision of universal service. High-cost funding shall be provided to
5 eligible telecommunications carriers as needed for the following:

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

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

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

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

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

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

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

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

1 ~~weighted average; and~~

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

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

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

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

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

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

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

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

33 ~~(f) On or within thirty (30) days following the fifth anniversary of~~
34 ~~February 4, 1997, the commission and the AUSF administrator shall complete~~
35 ~~and deliver a report on the status and performance of the AUSF to the~~
36 ~~Legislative Council.~~

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

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

7 23-17-405. Eligible telecommunications carrier.

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

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

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

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

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

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

34 (4) The telecommunications provider advertises the availability
 35 and the charges for the services, using media of general distribution; and

36 (5) It is determined by the commission that the designation is

1 in the public interest.

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

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

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

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

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

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

24

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

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

1 service, pursuant to § 23-17-408(c).

2
3 SECTION 7. The catchline of Arkansas Code § 23-17-412 is amended to
4 read as follows:

5 23-17-412. Optional alternative regulation of ~~non-tier one rural~~
6 ~~telephone~~ eligible telecommunications companies.

7
8 SECTION 8. Arkansas Code § 23-17-412(a)(1), concerning notice of
9 alternative regulation, is amended to read as follows:

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

18
19 SECTION 9. Arkansas Code § 23-17-412(k) - (m), concerning time
20 limitations for a change in basic rates and the packaging of services, is
21 amended to read as follows:

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

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

35 (m) A ~~rural~~ telephone company electing to be regulated in accordance
36 with this section may package any of its services with any other service it

1 or its affiliates offer, with or without a discount, provided that basic
2 local exchange services and switched-access services may be purchased
3 separately at the rates that are established in accordance with this section.
4

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

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

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

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

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