

Stricken language would be deleted from and underlined language would be added to present law.
Act 442 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S3/7/13
A Bill

SENATE BILL 797

By: Senator J. Dismang
By: Representative Wren

For An Act To Be Entitled

AN ACT TO ENSURE CONTINUED BROADBAND EXPANSION IN RURAL AREAS WITHIN THE STATE OF ARKANSAS; TO PROVIDE 911 EMERGENCY SERVICE TO RURAL AREAS WITHIN THE STATE; TO ENHANCE THE 911 EMERGENCY SYSTEM AND ASSIST ITS FUNDING; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO ENSURE CONTINUED BROADBAND EXPANSION IN RURAL AREAS WITHIN THE STATE; TO PROVIDE 911 EMERGENCY SERVICE TO RURAL AREAS WITHIN THE STATE; TO ENHANCE THE 911 EMERGENCY SYSTEM AND ASSIST ITS FUNDING; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 23-17-401 is amended to read as follows:
23-17-401. Title.

This subchapter ~~may~~ shall be ~~referred to~~ known and may be cited as the "Telecommunications Regulatory Reform Act of ~~1997~~ 2013".

SECTION 2. Arkansas Code § 23-17-403(3), concerning the definition of "Arkansas IntraLATA Toll Pool", is repealed.

~~(3) "Arkansas IntraLATA Toll Pool" means the unincorporated organization of the Arkansas incumbent local exchange carriers, approved by~~



~~the commission, whose purpose is to redistribute the pooled revenues from intraLATA toll telephone service;~~

SECTION 3. Arkansas Code § 23-17-403(10), concerning the definition of "eligible telecommunications carrier", is amended to read as follows:

(10) "Eligible telecommunications carrier" or "ETC" means the local exchange carrier determined in accordance with § 23-17-405;

SECTION 4. Arkansas Code § 23-17-403(49), concerning the definition of "2007 revenue base", is repealed.

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

SECTION 5. Arkansas Code § 23-17-403, concerning definitions used in the Telecommunications and Regulatory Reform Act of 1997, is amended to add an additional subdivision to read as follows:

(55) "Interconnected VoIP service" has the meaning defined by 47 C.F.R. 9.3, as it existed on January 1, 2013; and

SECTION 6. Arkansas Code § 23-17-404(a)(2), concerning Arkansas High Cost Fund funding, is amended to read as follows:

(2) The AHCF ~~will~~ shall provide funding to an eligible telecommunications carrier that provides basic local exchange services and other supported services using its own facilities or a combination of its own facilities and another carrier's facilities by the eligible telecommunications carrier within its study area.

SECTION 7. Arkansas Code § 23-17-404(b)(2)(A), concerning Arkansas High Cost Fund charges and funding, is amended to read as follows:

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

(ii) If the AHCF Administrator determines or receives a petition from two-thirds (2/3) of the AHCF participants stating that the Arkansas intrastate retail telecommunications services revenues are

inadequate to fully fund the AHCF requirements, the AHCF Administrator shall notify the Arkansas Public Service Commission and the commission shall open a docket that will develop and implement a plan to fully fund the AHCF requirements.

SECTION 8. Arkansas Code § 23-17-404(b)(2), concerning Arkansas High Cost Fund charges and funding, is amended to add an additional subdivision to read as follows:

(D) For purposes of assessing interconnected VoIP service, to the extent permitted by federal law the funding from each contributing carrier shall be based on:

(i) The total retail-billed Arkansas intrastate interconnected VoIP service revenues; or

(ii) The Federal Communications Commission's decision In the Matter of Universal Service Contribution Methodology, FCC 10-185, released November 5, 2010, or another assessment methodology as required by federal law.

SECTION 9. Arkansas Code § 23-17-404(c)(1)(B)(i), concerning qualifications of the Arkansas High Cost Fund administrator, is amended to read as follows:

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

SECTION 10. Arkansas Code § 23-17-404(c)(2)(B)(ii), concerning the duties of the Arkansas High Cost Fund administrator, is amended to read as follows:

(ii) Review and determine the accuracy and appropriateness of each request and advise the entity requesting the funds of his or her determination, including:

(a) Eligibility for support;

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

~~(c)~~ (e) The uncapped amount of support available; and

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

SECTION 11. Arkansas Code § 23-17-404(d)(1), concerning the duties of the Arkansas High Cost Fund administrator, is amended to read as follows:

~~(d)(1)(A)~~ The AHCF administrator periodically shall establish and notify each telecommunications provider of the AHCF charge levels required to be paid by the telecommunications provider. ~~In order to fund the AHCF at the required level, as soon as administratively reasonable after March 19, 2007, the AUSF administrator shall adjust the surcharge to ensure it will adequately fund the projected monthly payments required under this section, have sufficient reserves, and have the surplus necessary to fund the transition period required by this section. The AUSF administrator shall continue to charge and collect the AUSF surcharge until the AHCF administrator is designated by the commission and the AHCF administrator has adequate time to undertake charging and collecting the surcharge as the AHCF charge.~~

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

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

~~funds to the AHCF administrator.~~

SECTION 12. Arkansas Code § 23-17-404(e)(1)(B), concerning Arkansas High Cost Fund funding, is amended to add an additional subdivision to read as follows:

(iii) If an ETC seeks to participate in the AHCF program as a new funding recipient, the funding category applicable to the ETC shall be determined by the total customer access base of the ETC on the date of the application.

SECTION 13. Arkansas Code § 23-17-404(e)(3), (e)(4)(A), and (e)(4)(B), concerning charges and funding under the Telecommunications Regulatory Reform Communications Act of 2013, are amended to read as follows:

(3)(A)(i) The AICCLP members shall charge the rate under subdivision ~~(e)(4)(B)(i)~~ (e)(3)(B) of this section to underlying carriers.

~~(B)(ii)~~ The ILECs shall charge a reciprocal rate to other ILECs.

~~(C)(iii)~~ The commission may review the accuracy of the reciprocal rates and the per-access minute carrier common line rate charged under subdivision ~~(e)(4)(B)(i)~~ (e)(3)(B) of this section.

~~(D)(iv)~~ If the AICCLP fails to provide an ILEC's carrier common line net revenue requirement, the ILEC may obtain concurrent recovery of the revenue loss from basic local exchange rates, intrastate access rate adjustments, or a combination thereof. Any recovery of revenue loss under this subdivision ~~(e)(3)(D)~~ (e)(3)(A)(iv) shall not be subject to the caps on local rates under § 23-17-412;

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

~~required.~~

(B)(i) ~~Beginning January 1, 2004 Through June 30, 2013,~~ except as provided in this subdivision ~~(e)(4)(B)~~ (e)(3)(B) and subdivisions (e)(4)(A) and (e)(4)(B) of this section, the intrastate Carrier Common Line charges billed to ILECs and underlying carriers shall be determined at the rate of one and sixty-five hundredths cents (1.65¢) per intrastate access minute, exclusive of the amounts specified for funding the Extension of Telecommunications Facilities Fund and the Arkansas Calling Plan Fund. However, ILECs that are not AICCLP members may charge at a rate that is less than one and sixty-five hundredths cents (1.65¢) and may recover the difference between the actual rate charged and one and sixty-five hundredths cents (1.65¢) as allowed under § 23-17-416(b)(3). ~~Following April 20, 2001, carriers must continue to report RBMOUs associated with the traffic that they reported as of December 2000 and shall continue to report through December 31, 2003, except that incumbent local exchange carriers may discontinue reporting RBMOUs associated with their intracompany flat-rated optional plans that exist as of June 1, 2001. The AICCLP charges shall be adjusted to eliminate any credits to the AICCLP or to interexchange carriers that have been previously required.~~

(ii) Beginning July 1, 2013, except as provided in this subdivision (e)(3)(B) and subdivisions (e)(4)(A) and (e)(4)(B) of this section, the intrastate Carrier Common Line charges billed to ILECs and underlying carriers shall be determined at the rate of one and sixty-five hundredths cents (1.65¢) per originating intrastate access minute. However, ILECs that are not AICCLP members may charge at a rate that is less than one and sixty-five hundredths cents (1.65¢) per originating intrastate access minute and may recover the difference between the actual rate charged and one and sixty-five hundredths cents (1.65¢) as allowed under § 23-17-416(b)(3).

~~(ii)(a)(4)(A)(i)(a)~~ There is created an allocation of AICCLP AHCF funds to be known as the "Extension of Telecommunications Facilities Fund".

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

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

~~(2) Through December 31, 2003, the Extension of Telecommunications Facilities Fund and the Arkansas Calling Plan Fund will be funded by the AIGCLP by assessing one half (½) of the fund to be paid by ILECs and one half (½) of the fund to be paid by all other telecommunications providers reporting intrastate retail billed minutes of use to the AIGCLP.~~

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

~~(iv)(a)(iii)(a) Through December 31, 2003, the Extension of Telecommunications Facilities Fund and the Arkansas Calling Plan Fund will be funded by the AIGCLP assessing one half (½) of the fund to be paid by incumbent local exchange carriers (ILECs) and one half (½) of the fund to be paid by all other telecommunications providers reporting intrastate retail billed minutes of use to the AIGCLP. There is created an AHCF allocation to be known as the "Arkansas 911 Rural Enhancement Program Fund".~~

(b) The Arkansas 911 Rural Enhancement Program Fund shall receive a maximum of three million dollars (\$3,000,000) per year to:

(1) Advance the goals of universal service and help ensure that rural areas within the State of Arkansas have access to 911 services that are comparable to 911 services in urban areas within the state; and

(2) Provide funding to:

(A) The statewide Smart911 system established in Acts 2012, No. 213;

(B) The SmartPrepare System; and

(C) 911 administrative systems for emergency management under the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq.

(B)(i)(a) Beginning January 1, 2004, the The Extension of Telecommunications Facilities Fund, and the Arkansas Calling Plan Fund, and

~~the Arkansas 911 Rural Enhancement Program Fund will shall be paid by the AIGCLP members, exiting ILECs, and underlying carriers as follows: through the Arkansas High Cost Fund.~~

(b) Payments made under subdivision

(e)(4)(B)(i)(a) of this section may exceed and are in addition to the limit provided by subdivision (e)(4)(E)(ii)(a) of this section.

~~(1) Each AIGCLP member and each exiting ILEC shall remit to the AIGCLP administrator on a monthly basis the proportion of the total assessment each was paying before December 31, 2003, for a collective total of one half ($\frac{1}{2}$) of those funds;~~

~~(2) Underlying carriers shall pay to the administrator a collective total of one half ($\frac{1}{2}$) of the cost of the Arkansas Calling Plan Fund and Extension of Telecommunications Facilities Fund; and~~

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

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

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

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

~~(2) Assessments shall be made with respect to the Extension of Telecommunications Facilities Fund and the Arkansas Calling Plan Fund only to the extent necessary, but not more than the maximum specified in this section, to fund any extensions of facilities~~

~~or calling plans approved by the Arkansas Public Service Commission in accordance with applicable law and this section.~~

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

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

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

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

SECTION 14. Arkansas Code § 23-17-404(e)(4)(C)(i), concerning available support for an eligible telecommunications carrier, is amended to read as follows:

~~(C)(i) Any An ETC may receive support from the AHCF after it is established and operational. Until that time, the current AUSE shall continue to provide support through June 30, 2007, at the level set by commission order. After June 30, 2007, the support level for companies receiving payments from the AUSE shall continue at the level previously ordered by the commission subject to an adjustment to reflect the elimination of an overpayment made to AUSE recipients in 2006. At such time that the AHCF is fully operational and providing support to ETCs through the formula set forth herein, all payments from the AUSE shall cease and the AUSE shall be eliminated and administratively closed as soon as possible in accordance with this subdivision (e)(4)(C) and subdivisions (e)(4)(D) and (E) of this section.~~

SECTION 15. Arkansas Code § 23-17-404(e)(4)(C)(ii)(b)(1)(A), concerning the calculation of the local switching support amount, is amended to read as follows:

(A)(i) The AHCF administrator shall use the most current trued up local switching support amount that has been calculated by NECA and submitted to USAC annually for each ETC within its size group.

(ii) An ETC that does not submit the information required by subdivision (e)(4)(C)(ii)(b)(1)(A)(i) of this section shall submit equivalent information to the AHCF administrator for the AHCF administrator to calculate a local switching support amount.

(iii) For each ETC that does not have an individually calculated local switching support amount, the AHCF administrator shall calculate a local switching support amount by using an average of all ETCs within its size group that have an established local switching amount;

SECTION 16. Arkansas Code § 23-17-404(e)(4)(C)(ii)(c)(3)(A) and (B), concerning calculations for the Arkansas High Cost Fund, are amended to read as follows:

(3)(A) ~~If state or federal regulatory or legislative actions eliminate the publicly available elements used to calculate loop support under subdivision (e)(4)(C)(ii)(a)(1) of this section or local switching support under subdivision (e)(4)(C)(ii)(b)(1) of this section for an ETC with a total customer access base or total customer base of fewer than fifteen thousand (15,000) lines or customers, the AHCF administrator~~ determines that the changes in publicly available elements used to calculate loop support under subdivision (e)(4)(C)(ii)(a)(1) of this section or local switching support under subdivision (e)(4)(C)(ii)(b)(1) of this section cause an under-recovery of more than ten percent (10%) of support by ETCs with a total customer access base or total customer base of fewer than fifteen thousand (15,000) lines or customers participating in the AHCF, then the AHCF administrator shall promptly notify the commission.

(B) Once notified, the commission shall open a rule-making docket to replace the eliminated, frozen, or modified elements that are causing the under-recovery used to calculate loop

support under subdivision (e)(4)(C)(ii)(a)(1) of this section or local switching support under subdivision (e)(4)(C)(ii)(b)(1) of this section.

SECTION 17. Arkansas Code § 23-17-404(e)(4)(C)(v), and subdivisions (e)(4)(D) and (E), concerning the calculation of eligible telecommunications carrier support, are amended to read as follows:

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

~~(a) In year one of the transition period, the administrator shall first calculate the total support due an ETC from the AHCF. If the AHCF calculation for the ETC exceeds the revenue the ETC received from the AUSF in the 2007 revenue base, the AHCF calculation shall be the ETC's uncapped unreduced AHCF support. If the ETC's calculated AHCF support is less than the ETC's 2007 revenue base, then the ETC's AHCF uncapped support in year one shall be the ETC's AHCF calculated support plus eighty nine percent (89%) of the difference between the ETC's 2007 revenue base and the ETC's calculated AHCF support;~~

~~(b) In year two of the transition period, the administrator shall first calculate the total support due an ETC from the AHCF. If the AHCF calculation for the ETC exceeds the revenue the ETC received from the AUSF in the 2007 revenue base, the AHCF calculation shall be the ETC's uncapped unreduced AHCF support. If the ETC's calculated AHCF support is less than the ETC's 2007 revenue base, the ETC's AHCF uncapped support in year two shall be the ETC's AHCF calculated support plus seventy-eight percent (78%) of the difference between the ETC's 2007 revenue base and the ETC's calculated AHCF support;~~

~~(c) In year three of the transition period, the administrator shall first calculate the total support due an ETC from the~~

~~AHCF. If the AHCF calculation for the ETC exceeds the revenue the ETC received from the AUSF in the 2007 revenue base, the AHCF calculation shall be the ETC's uncapped unreduced AHCF support. If the ETC's calculated AHCF support is less than the ETC's 2007 revenue base, the ETC's AHCF uncapped support in year three shall be the ETC's AHCF calculated support plus sixty-seven percent (67%) of the difference between the ETC's 2007 revenue base and the ETC's calculated AHCF support;~~

~~(d) In year four of the transition period, the administrator shall first calculate the total support due an ETC from the AHCF. If the AHCF calculation for the ETC exceeds the revenue the ETC received from the AUSF in the 2007 revenue base, the AHCF calculation shall be the ETC's uncapped unreduced AHCF support. If the ETC's calculated AHCF support is less than the ETC's 2007 revenue base, the ETC's AHCF uncapped support in year four shall be the ETC's AHCF calculated support plus fifty-one percent (51%) of the difference between the ETC's 2007 revenue base and the ETC's calculated AHCF support;~~

~~(e) In year five of the transition period, the administrator shall first calculate the total support due an ETC from the AHCF. If the AHCF calculation for the ETC exceeds the revenue the ETC received from the AUSF in the 2007 revenue base, the AHCF calculation shall be the ETC's uncapped unreduced AHCF support. If the ETC's calculated AHCF support is less than the ETC's 2007 revenue base, the ETC's AHCF uncapped support in year five shall be the ETC's AHCF calculated support plus thirty-four percent (34%) of the difference between the ETC's 2007 revenue base and the ETC's calculated AHCF support; and~~

~~(f)(D)(i) After the five-year transition period, the The AHCF administrator shall calculate each ETC's support by first calculating each ETC's uncapped AHCF support.~~

~~(ii) If the total calculated support to all ETCs within a size group is less than the capped amount of the size group's part of the total AHCF, each ETC within the size group shall be entitled to its total calculated AHCF support.~~

~~(D)(i)(a) The cost to transition from the 2007 revenue base to the AHCF during the five-year transition period shall be funded by a combination of sources. The AHCF administrator shall reserve three million dollars (\$3,000,000) from the existing AUSF surplus to assist in funding the~~

~~transition period. The specific annual amounts the AHCF administrator shall use from the surplus for the transition period shall be as follows:~~

- ~~(1) One million dollars (\$1,000,000) for year one;~~
- ~~(2) Seven hundred fifty thousand dollars (\$750,000) for year two;~~
- ~~(3) Seven hundred fifty thousand dollars (\$750,000) for year three;~~
- ~~(4) Two hundred fifty thousand dollars (\$250,000) for year four; and~~
- ~~(5) Two hundred fifty thousand dollars (\$250,000) for year five.~~

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

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

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

~~(c) If the surplus does not fully fund the transition costs, then each ETC participating in the size group with a total customer access base of under fifteen thousand (15,000) access lines that is not receiving transition funds shall pay a pro rata share of the remaining transition costs based upon a formula using total increase in support received by all ETCs with an increase from the 2007 revenue base to AHCF levels as the denominator and the specific ETC's increase from the 2007 revenue base to the AHCF support as the numerator. The AHCF administrator shall use that formula to calculate the pro rata share of each ETC that is not receiving transition funds to assist in fully funding the transition costs. However, an ETC shall not be required to pay transition funding that would lower its uncapped payment from the AHCF below the ETC's funding received from the AUSE in the 2007 revenue base.~~

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

(E)(i)(a)(1)(A) The AHCF administrator shall apply the cap on the total AHCF and upon the specific size groups established within the AHCF annually. ~~During the transition, the cap shall be applied as follows:~~

~~(i)(a)(1) The total AHCF support that is calculated to be due ETCs within each size group of the AHCF shall be calculated prior to the consideration of the transition funding.~~

(B) If total support due a size group, ~~prior to transition funding,~~ does not exceed that size group's AHCF cap, the AHCF administrator shall pay that size group's full AHCF support amount.

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

(b)(1) To reduce each size group's authorized support to conform to the size group's cap, the AHCF administrator shall determine total calculated AHCF support to each ETC within the size group ~~and shall add each ETC's transition payment, if any, to establish each ETC's total calculated support within the size group.~~

(2) The AHCF administrator shall then use the total calculated support due all ETCs within the size group as the denominator and the amount the size group's AHCF calculation exceeds the cap as the numerator.

(3) The administrator shall then subtract from each ETC's total calculated support a pro rata portion, using the fraction established herein to reduce AHCF funding to the capped amount, based upon each ETC's total calculated support, to reduce the size group's support level to the capped AHCF amount; ~~and.~~

(ii)(a) The Except as provided in subdivision (e)(4)(B) of this section, funds available for distribution to ETCs from the AHCF shall not exceed and are capped at ~~twenty-two million dollars (\$22,000,000) per year, the total capped fund~~ thirty-nine million eight

hundred thousand dollars (\$39,800,000) per year. Cost of administrating the AHCF shall first be deducted from the total capped fund ~~prior to~~ before allocation of funding to the ETCs. ~~Transition funds used from the surplus during the five-year transition period are supplemental and are not subject to any cap.~~ The annual period to be used by the AHCF administrator to adjust support levels and upon which to apply any cap shall be on the calendar year. In addition to the total fund cap, the funds available from the AHCF shall also be capped based upon size groups using access lines for loop-based ETCs and customers for customer-based ETCs. Size grouping is used to ensure funds are targeted to areas most needing high-cost assistance. For the purpose of calculating the size grouping caps, total customer access base shall be used for loop-based ETCs and total customers for customer-based ETCs.

(b) For all ETCs with a total customer access base or total customer base of five hundred thousand (500,000) or more access lines or customers on or after December 31, 2010, the size group cap shall be ~~thirteen and one-half percent (13.5%)~~ twelve and five-tenths percent (12.5%) of the total capped fund.

(c) For all ETCs with a total customer access base or total customer base of one hundred fifty thousand (150,000) or more access lines or customers and fewer than five hundred thousand (500,000) access lines or customers on December 31, 2010, the size group cap shall be ~~thirteen and one-half percent (13.5%)~~ twelve and five-tenths percent (12.5%) of the total capped fund.

(d) For all ETCs with a total customer access base or total customer base of fifteen thousand (15,000) or more access lines or customers and fewer than one hundred fifty thousand (150,000) access lines or customers on December 31, 2010, the size group cap shall be two percent (2%) of the total capped fund.

(e) For all ETCs with a total customer access base or total customer base of fewer than fifteen thousand (15,000) access lines or customers, the size group cap shall be ~~seventy-one percent (71%)~~ seventy-three percent (73%) of the total capped fund.

SECTION 18. Arkansas Code § 23-17-404(e)(5)(D) and (E), concerning grant applications and reporting requirements, are amended to read as follows:

~~(D)~~~~(i)~~(6)(A) Three million dollars (\$3,000,000) shall be transferred annually from the AHCF to the Arkansas Department of Emergency Management on a quarterly basis for the Arkansas 911 Rural Enhancement Program to fund:

(i) The statewide Smart911 system in the amount of six hundred thousand dollars (\$600,000) annually;

(ii) The SmartPrepare System in the amount of two hundred twenty-five thousand dollars (\$225,000) annually;

(iii) The 911 administration system for emergency management under the Arkansas Emergency Services Act of 1973, § 12-75-101 et seq., in the amount of one hundred seventy-five thousand dollars \$175,000 annually; and

(iv) Arkansas counties for 911 public safety answering points in the amount of two million dollars (\$2,000,000) annually.

(B)(i) Funding for counties under subdivision (e)(6)(A)(iv) of this section shall be transferred based on county population and distributed as follows:

(a) The twenty-five (25) least-populated counties shall receive equal portions of fifty percent (50%) of the available funds;

(b) The next twenty-five (25) least-populated counties shall receive equal portions of thirty-five percent (35%) of the available funds; and

(c) The remaining twenty-five (25) counties shall receive equal portions of fifteen percent (15%) of the available funds.

(ii) County population shall be calculated based on current data from the Geography Division of the United States Bureau of the Census.

(7)(A)(i) The commission shall provide quarterly reports to the Legislative Council. The reports shall include, ~~but shall not be limited to,~~ without limitation the number of requests for grants, the number of grants awarded, the amount awarded, and the number of additional customers served.

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

~~(E) (B) In order to~~ To allow time for potential applicants to request grants, no grants shall be awarded for three (3) months after the

effective date of the rules establishing the program.

Section 19. Arkansas Code §23-17-405(c), concerning eligible telecommunications carriers, is amended to read as follows:

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

(2) In an area in which a carrier is not an eligible telecommunications carrier, the carrier may:

(A) Continue providing services, including universal services; and

(B)(i) Discontinue providing services, including universal services.

(ii) If a carrier discontinues providing a service under subdivision (c)(2)(B)(i) of this section, the carrier shall notify affected customers in writing at least ninety (90) days before discontinuing the service.

Section 20. Arkansas Code §23-17-411(f)(1), concerning regulatory reform, is amended to read as follows:

(f)(1) In order to eliminate outdated, unnecessary, and burdensome laws and regulations, electing companies, incumbent local exchange carriers filing notice under § 23-17-412, and competing local exchange carriers shall not be subject to the requirements of §§ 23-2-304(a)(1), (7), and (8), 23-2-306, 23-2-307, 23-3-101 – 23-3-107, 23-3-112, 23-3-114, 23-3-118, 23-3-119(a)(2), 23-3-201, 23-3-206, 23-3-301 – 23-3-316, 23-4-101 – 23-4-104, 23-4-107, 23-4-109, 23-4-110, 23-4-201(d), 23-4-401 – 23-4-405, ~~and~~ 23-4-407 – 23-4-419, and 23-17-113, or the commission's rules and regulations implementing the statutes.

SECTION 21. Effective July 1, 2013, Arkansas Code § 23-17-411(f), concerning regulatory reform measures, is amended to add additional

subdivisions to read as follows:

(3) If an electing company that is authorized under § 23-17-407(d) to determine the rates for basic local exchange service and switched-access services under § 23-17-408(c) posts on a publicly accessible Internet website its generally available prices and terms of service for basic local exchange service and switched-access services, the electing company is not required to file or maintain with the commission any tariff or price list setting forth the rates, rentals, charges, privileges, facilities, rules, regulations, or forms of contract for telecommunications services.

(4) An electing company that is authorized under § 23-17-407(d) to determine the rates for basic local exchange service and switched-access services under § 23-17-408(c) may elect to be exempt from any requirement to offer a calling plan under § 23-17-120.

SECTION 22. Arkansas Code § 23-17-411(g), concerning regulatory reform measures, is amended to read as follows:

(g) ~~The commission, except~~ Except as provided in this subchapter with respect to universal services, ~~shall have no~~ the commission does not have jurisdiction to regulate:

(1) ~~commercial~~ Commercial mobile services or commercial mobile service providers;

(2) Voice over Internet Protocol services; or

(3) Voice over Internet Protocol providers.

SECTION 23. Arkansas Code § 23-17-412(i)(1), concerning the review of basic local exchange service rates by the Arkansas Public Service Commission, is amended to read as follows:

(i)(1)(A) The commission on its own motion may review basic local exchange service rates of any company subject to this section if the company has increased the rates by more than the greater of fifteen percent (15%) or two dollars (\$2.00) per access line per month within any consecutive twelve-month period, excluding rate increases:

~~(A)(i)~~ Ordered by the commission pursuant to § 23-17-404; ~~or~~

~~(B)(ii)~~ Resulting from the provision of extended area services required as the result of customer election under commission

rules+;

(iii) Resulting from ETC increases in response to the Federal Communications Commission benchmark legislation, rules, or procedures; or

(iv) Necessary to meet a local rate threshold for purposes of receiving maximum support from a federal universal support mechanism or program.

(B) Unless a company provides an affidavit to the Arkansas Public Service Commission stating the separately identified language requirements of this subdivision (i)(1)(B) would cause a hardship based on the billing system limitations of the company:

(i) A local service rate increase under subdivision (i)(1)(A)(iii) of this section may be identified separately on the customer's bill with descriptive language as increases mandated to comply with the Federal Communications Commission benchmark legislation rules; and

(ii) The Federal Communication Commission's Access Recovery Charge may be identified separately with appropriate descriptive language on the customer's bill.

SECTION 24. Arkansas Code § 23-17-416(a), concerning intrastate common line charges, is amended to read as follows:

(a)(1)(A) Except as provided in § 23-17-404(e)(4)(D)(i)(b), beginning January 1, 2004 through June 30, 2013, intrastate carrier common line charges billed to ILECs and underlying carriers shall be determined at the rate of one and sixty-five hundredths cents (1.65¢) per intrastate access minute.

(B) Except as provided in § 23-17-404(e)(4)(D)(i)(b), beginning July 1, 2013, intrastate carrier common line charges billed to ILECs and underlying carriers shall be determined at the rate of one and sixty-five hundredths cents (1.65¢) per originating intrastate access minute.

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

SECTION 25. Arkansas Code § 23-17-416(b)(1), concerning the calculation of payments to the AICCLP, is amended to read as follows:

(b)(1) Each underlying carrier's monthly payment to the AICCLP shall include the sum of the underlying carrier's share of the AICCLP's net revenue

~~requirement for the remaining incumbent local exchange carriers, the underlying carrier's portion of the Arkansas Calling Plan Fund and Extension of Telecommunications Facilities Fund expense, that has been adjusted to reflect the originating intrastate revenue requirement of each AICCLP member and the AICCLP administrative expenses.~~

SECTION 26. Arkansas Code § 23-17-416(e)(4), concerning the calculation of payments to the AICCLP, is amended to read as follows:

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

(B)(i) On or before June 30, 2013, the administrator shall change the AICCLP tariff on file with the Arkansas Public Service Commission to reflect only the originating intrastate revenue requirements for each AICCLP member based on the Federal Communications Commission's order In the Matter of Connect America Fund et al., FCC 11-161, released November 18, 2011, providing that the intrastate carrier common line terminating access rate chargeable by telecommunications carriers shall be set at the interstate rate for carrier common line terminating access.

(ii) To properly administer the AICCLP, the administrator shall subtract the terminating intrastate revenue requirement amount that should have been transferred to the FCC ICC-CAF funding from the intrastate revenue requirements listed in the AICCLP tariff to ensure that the funding for the amounts attributed to the AICCLP member's intrastate revenue requirement represent only the originating portion of the revenue requirement.

SECTION 27. Arkansas Code § 23-17-416(h)(4), concerning the calculation of payments to the AICCLP, is amended to read as follows:

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

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

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

SECTION 28. Arkansas Code Title 23, Chapter 17, Subchapter 4, is amended to add an additional section to read as follows:

23-17-418. Arkansas High Cost Fund – Programs – Assessments – Funding.

(a) The Arkansas High Cost Fund Administrator shall:

(1) On the effective date of this act, begin making assessments to ensure proper funding to program participants; and

(2) Ninety (90) days after the effective date of this act, begin making distributions to eligible participants.

(b)(1) On the first day of the calendar quarter after the effective date of this act, the administrator shall use previous calculations of the annual determination and recalculate the support for all participants in the fund based on the revised cap.

(2) The difference between the recalculation and the current administrator's determination shall be known as the "transitional funding cap".

(3) The transitional funding cap shall be transitioned from being unfunded to funded.

(4) If the effective date of payment of any part of the transitional funding cap occurs on a date that is not the beginning of a calendar year, the partial calendar year shall be prorated for the purpose of payment of the transitional funding cap for the remainder of the calendar year.

(c) Annually beginning January 1, 2014, the administrator shall determine the fund support during the annual determination process as described in § 23-17-404(e)(4)(C)(ii)(a) and pay the fund's eligible telecommunications carrier participants.

SECTION 29. Arkansas Code § 23-17-120(b)(2), concerning the funding of

calling plans, is amended to read as follows:

(2) The plan shall be funded by customer charges under subdivision (b)(1) of this section and by the Arkansas Calling Plan Fund established by § 23-17-404(e)~~(4)(D)~~.

SECTION 30. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that 911 emergency service is essential to protect the lives, health, and welfare of the state's residents in emergency situations; that 911 service is not available in many rural areas of the state; that the assessment and funding provisions of this act should be implemented immediately to accomplish the purposes of this act; and that this act is necessary to expand the benefits of the 911 emergency system to all residents of the state for their immediate protection. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

/s/J. Dismang

APPROVED: 03/19/2013