

1 AN ACT concerning telecommunications.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Public Utilities Act is amended by adding
5 Sections 13-408 and 13-409 as follows:

6 (220 ILCS 5/13-408 new)

7 Sec. 13-408. Unbundled network element rates. This
8 Section applies to and covers certain unbundled network
9 element rates that shall be charged by incumbent local
10 exchange carriers that are subject to regulation under an
11 alternative regulation plan under Section 13-506.1 of this
12 Act. The General Assembly finds and determines that it should
13 provide direction to the Illinois Commerce Commission
14 regarding the establishment of the monthly recurring rates
15 that such incumbent local exchange carriers shall charge
16 other telecommunications carriers for unbundled loops,
17 whether provided on a standalone basis or in combination with
18 other unbundled network elements, in order to ensure (i) that
19 such rates are consistent with the requirements of the
20 federal Telecommunications Act of 1996, the regulations
21 promulgated thereunder, and subsection (g) of Section 13-801
22 of this Act, and (ii) that such incumbent local exchange
23 carriers are able to recover the efficient, forward-looking
24 costs of creating, operating, and maintaining the network
25 outside plant infrastructure capacity and switching and
26 transmission network capacity necessary to permit such
27 incumbent local exchange carriers to meet in a timely and
28 adequate fashion the obligations imposed by Section 8-101 of
29 this Act.

30 In order to ensure recurring unbundled network element
31 rates for loops that accomplish these objectives, the

1 Illinois Commerce Commission shall set the recurring rates
2 affected incumbent local exchange carriers receive for
3 unbundled loops, whether provided on a standalone basis or in
4 combination with other unbundled network elements, in
5 accordance with the requirements delineated below.

6 (a) Fill factors. The General Assembly directs that the
7 Illinois Commerce Commission shall employ fill factors (the
8 proportion of a facility or element that will be "filled"
9 with network usage) that represent a reasonable projection of
10 actual total usage of the elements in question, in accordance
11 with applicable federal law. The General Assembly finds that
12 existing actual total usage of the elements that affected
13 incumbent local exchange carriers are required to provide to
14 competing local exchange carriers, as reflected in the
15 current actual fill factors for the elements in question, is
16 the most reasonable projection of actual total usage. The
17 Commission, therefore, shall employ current actual fill
18 factors that reflect such existing actual total usage on a
19 going forward basis in establishing cost based rates for such
20 unbundled network elements. In addition, the Commission shall
21 adjust all existing Commission-approved rates for unbundled
22 loops, whether provided on a standalone basis or in
23 combination with other unbundled network elements, that are
24 currently in effect to make such rates consistent with this
25 provision.

26 (b) Depreciation rates. The General Assembly further
27 directs that the Commission shall employ depreciation rates
28 that are forward-looking and based on economic lives as
29 reflected in the incumbent local exchange carrier's books of
30 accounts as reported to the investment community under the
31 regulations of the Securities and Exchange Commission. Use of
32 an accelerated depreciation mechanism shall be required in
33 all cases. Use of a depreciation rate based on historical
34 rate-of-return regulation derived lives of the elements and

1 facilities in question shall be prohibited. In addition, the
2 Commission shall adjust all existing Commission-approved
3 rates for unbundled loops, whether provided on a standalone
4 basis or in combination with other unbundled network
5 elements, that are currently in effect to make such rates
6 consistent with this provision.

7 (c) The rate adjustments required by subsections (a) and
8 (b) of this Section must be completed within 30 days of the
9 effective date of this Section. In the case of any incumbent
10 local exchange carrier that is subject to an alternative
11 regulation plan under Section 13-506.1 at the time this
12 Section becomes effective, in making these rate adjustments,
13 the Commission shall determine the specific required
14 adjustments with respect to fill factors and depreciation
15 lives by employing the models and methodology used to
16 generate the proposed rates submitted by such an incumbent
17 local exchange carrier in ICC Docket 02-0864. The Commission
18 proceedings initiated to establish such adjusted rates shall
19 be deemed interconnection agreement arbitration and approval
20 proceedings under Sections 252(b) and (e) of the federal
21 Telecommunications Act of 1996. Immediately upon conclusion
22 of such proceedings, all existing interconnection agreements
23 in this State of affected incumbent local exchange carriers
24 shall be deemed amended to contain the adjusted rates
25 established in such proceedings. In addition, immediately
26 upon conclusion of such proceedings, all wholesale tariffs,
27 currently effective in this State, of affected incumbent
28 local exchange carriers shall be deemed amended to contain
29 the adjusted rates established in such proceedings. In
30 accordance with these provisions, immediately upon the
31 establishment by the Commission of the adjusted rates covered
32 hereby, each affected incumbent local exchange carrier shall
33 charge such adjusted rates, to the extent applicable, for all
34 of the network element products that are provided to other

1 carriers, whether those products are provided under an
 2 interconnection agreement or a tariff. The proceeding in ICC
 3 Docket 02-0864 is hereby abated as of the effective date of
 4 this amendatory Act of the 93rd General Assembly.

5 (d) Notwithstanding anything to the contrary contained
 6 in Section 13-505.1 of this Act, unbundled network element
 7 rates established in accordance with the provisions of this
 8 Section shall not require any increase in any retail rates
 9 for any telecommunications service.

10 (220 ILCS 5/13-409 new)

11 Sec. 13-409. Application of Sec. 13-408 unbundled
 12 network element rates.

13 (a) During the first 2 years following the effective
 14 date of Section 13-408, for the first 35,000 voice grade
 15 equivalent access lines used by an individual carrier to
 16 provide local exchange service to end users, the monthly
 17 recurring rate for the unbundled network elements associated
 18 with those lines and leased from an incumbent local exchange
 19 carrier to which Section 13-408 applies shall be frozen at
 20 the levels in effect immediately prior to the effective date
 21 of Section 13-408.

22 (b) Thereafter, the monthly recurring rates for all
 23 unbundled network elements provided by any incumbent local
 24 exchange carrier to which Section 13-408 applies shall be the
 25 rates established by the Commission in accordance with the
 26 provisions of Section 13-408.

27 (c) If, as of the effective date of Section 13-408 and
 28 this Section, an individual telecommunications carrier uses
 29 unbundled network elements leased from a specific incumbent
 30 local exchange carrier to provide local exchange service over
 31 more than 35,000 voice grade equivalent access lines, that
 32 carrier must designate the 35,000 voice grade equivalent
 33 access lines to which the provisions of subsections (a) and

1 (b) of this Section apply. If subsequent to such designation,
2 the individual carrier loses the customer served by a
3 designated access line, and therefore no longer leases the
4 unbundled network elements associated with that line, the
5 individual carrier may not designate a different access line
6 to substitute for the lost line. All unbundled network
7 elements leased to provide service over undesignated voice
8 grade equivalent access lines shall be subject to the full
9 monthly recurring rates established by the Commission in
10 accordance with the provisions of Section 13-408.

11 (d) If, as of the effective date of this Section, an
12 individual carrier uses unbundled network elements leased
13 from a specific local exchange carrier to provide local
14 exchange service over fewer than 35,000 voice grade
15 equivalent access lines, that carrier must designate the
16 access lines to which the provisions of subsections (a) and
17 (b) of this Section apply. If subsequent to such designation,
18 the individual carrier loses the customer served by a
19 designated access line, and therefore no longer leases the
20 unbundled network elements associated with that line, the
21 individual carrier may not designate a different access line
22 to substitute for the lost line. Subject to these
23 limitations, subsequent to the effective date of this
24 Section, such a carrier may designate additional voice grade
25 equivalent access lines to which it wishes the provisions of
26 subsections (a) and (b) of this Section to apply, until the
27 total designated lines equal 35,000. If a subsequently
28 designated line is lost, the carrier will not be permitted to
29 designate a different line to substitute for that lost line.
30 All unbundled network elements leased to provide service over
31 undesignated voice grade equivalent access lines shall be
32 subject to the full monthly recurring rates established by
33 the Commission in accordance with the provisions of Section
34 13-408.

1 (e) For purposes of this Section, in determining when an
2 individual telecommunications carrier has reached 35,000
3 voice grade equivalent access lines, a specific carrier, any
4 affiliate of that carrier, any carrier serving as a sales or
5 marketing agent for that carrier, and any carrier with whom
6 that carrier has a cooperative sales or marketing arrangement
7 all shall be treated as a single individual carrier.

8 (f) Notwithstanding any other provisions of this
9 Section, access lines provided to payphone service providers
10 are not eligible for the freeze or discount provided for in
11 subsections (a) and (b) of this Section. Accordingly, the
12 provisions of subsections (a) and (b) shall not apply to
13 unbundled network elements that are leased by individual
14 telecommunications carriers to provide local exchange service
15 to payphone service providers.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.