

1 AMENDMENT TO SENATE BILL 885

2 AMENDMENT NO. _____. Amend Senate Bill 885 as follows:

3 by replacing everything after the enacting clause with the
4 following:

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

7 (220 ILCS 5/13-408 new)

8 Sec. 13-408. Unbundled network element rates. This
9 Section applies to and covers certain unbundled network
10 element rates that shall be charged by incumbent local
11 exchange carriers that are subject to regulation under an
12 alternative regulation plan under Section 13-506.1 of this
13 Act. The General Assembly finds and determines that it should
14 provide direction to the Illinois Commerce Commission
15 regarding the establishment of the monthly recurring rates
16 that such incumbent local exchange carriers shall charge
17 other telecommunications carriers for unbundled loops,
18 whether provided on a standalone basis or in combination with
19 other unbundled network elements, in order to ensure (i) that
20 such rates are consistent with the requirements of the
21 federal Telecommunications Act of 1996, the regulations

1 promulgated thereunder, and subsection (g) of Section 13-801
2 of this Act, and (ii) that such incumbent local exchange
3 carriers are able to recover the efficient, forward-looking
4 costs of creating, operating, and maintaining the network
5 outside plant infrastructure capacity and switching and
6 transmission network capacity necessary to permit such
7 incumbent local exchange carriers to meet in a timely and
8 adequate fashion the obligations imposed by Section 8-101 of
9 this Act.

10 In order to ensure recurring unbundled network element
11 rates for loops that accomplish these objectives, the
12 Illinois Commerce Commission shall set the recurring rates
13 affected incumbent local exchange carriers receive for
14 unbundled loops, whether provided on a standalone basis or in
15 combination with other unbundled network elements, in
16 accordance with the requirements delineated below.

17 (a) Fill factors. The General Assembly directs that the
18 Illinois Commerce Commission shall employ fill factors (the
19 proportion of a facility or element that will be "filled"
20 with network usage) that represent a reasonable projection of
21 actual total usage of the elements in question, in accordance
22 with applicable federal law. The General Assembly finds that
23 existing actual total usage of the elements that affected
24 incumbent local exchange carriers are required to provide to
25 competing local exchange carriers, as reflected in the
26 current actual fill factors for the elements in question, is
27 the most reasonable projection of actual total usage. The
28 Commission, therefore, shall employ current actual fill
29 factors that reflect such existing actual total usage on a
30 going forward basis in establishing cost based rates for such
31 unbundled network elements. In addition, the Commission shall
32 adjust all existing Commission-approved rates for unbundled
33 loops, whether provided on a standalone basis or in
34 combination with other unbundled network elements, that are

1 currently in effect to make such rates consistent with this
2 provision.

3 (b) Depreciation rates. The General Assembly further
4 directs that the Commission shall employ depreciation rates
5 that are forward-looking and based on economic lives as
6 reflected in the incumbent local exchange carrier's books of
7 accounts as reported to the investment community under the
8 regulations of the Securities and Exchange Commission. Use of
9 an accelerated depreciation mechanism shall be required in
10 all cases. Use of a depreciation rate based on historical
11 rate-of-return regulation derived lives of the elements and
12 facilities in question shall be prohibited. In addition, the
13 Commission shall adjust all existing Commission-approved
14 rates for unbundled loops, whether provided on a standalone
15 basis or in combination with other unbundled network
16 elements, that are currently in effect to make such rates
17 consistent with this provision.

18 (c) The rate adjustments required by subsections (a) and
19 (b) of this Section must be completed within 30 days of the
20 effective date of this Section. In the case of any incumbent
21 local exchange carrier that is subject to an alternative
22 regulation plan under Section 13-506.1 at the time this
23 Section becomes effective, in making these rate adjustments,
24 the Commission shall determine the specific required
25 adjustments with respect to fill factors and depreciation
26 lives by employing the models and methodology used to
27 generate the proposed rates submitted by such an incumbent
28 local exchange carrier in ICC Docket 02-0864. The Commission
29 proceedings initiated to establish such adjusted rates shall
30 be deemed interconnection agreement arbitration and approval
31 proceedings under Sections 252(b) and (e) of the federal
32 Telecommunications Act of 1996. Immediately upon conclusion
33 of such proceedings, all existing interconnection agreements
34 in this State of affected incumbent local exchange carriers

1 shall be deemed amended to contain the adjusted rates
2 established in such proceedings. In addition, immediately
3 upon conclusion of such proceedings, all wholesale tariffs,
4 currently effective in this State, of affected incumbent
5 local exchange carriers shall be deemed amended to contain
6 the adjusted rates established in such proceedings. In
7 accordance with these provisions, immediately upon the
8 establishment by the Commission of the adjusted rates covered
9 hereby, each affected incumbent local exchange carrier shall
10 charge such adjusted rates, to the extent applicable, for all
11 of the network element products that are provided to other
12 carriers, whether those products are provided under an
13 interconnection agreement or a tariff. The proceeding in ICC
14 Docket 02-0864 is hereby abated as of the effective date of
15 this amendatory Act of the 93rd General Assembly.

16 (d) Notwithstanding anything to the contrary contained
17 in Section 13-505.1 of this Act, unbundled network element
18 rates established in accordance with the provisions of this
19 Section shall not require any increase in any retail rates
20 for any telecommunications service.

21 (220 ILCS 5/13-409 new)

22 Sec. 13-409. Application of Sec. 13-408 unbundled
23 network element rates.

24 (a) During the first 2 years following the effective
25 date of Section 13-408, for the first 35,000 voice grade
26 equivalent access lines used by an individual carrier to
27 provide local exchange service to end users, the monthly
28 recurring rate for the unbundled network elements associated
29 with those lines and leased from an incumbent local exchange
30 carrier to which Section 13-408 applies shall be frozen at
31 the levels in effect immediately prior to the effective date
32 of Section 13-408.

33 (b) Thereafter, the monthly recurring rates for all

1 unbundled network elements provided by any incumbent local
2 exchange carrier to which Section 13-408 applies shall be the
3 rates established by the Commission in accordance with the
4 provisions of Section 13-408.

5 (c) If, as of the effective date of Section 13-408 and
6 this Section, an individual telecommunications carrier uses
7 unbundled network elements leased from a specific incumbent
8 local exchange carrier to provide local exchange service over
9 more than 35,000 voice grade equivalent access lines, that
10 carrier must designate the 35,000 voice grade equivalent
11 access lines to which the provisions of subsections (a) and
12 (b) of this Section apply. If subsequent to such designation,
13 the individual carrier loses the customer served by a
14 designated access line, and therefore no longer leases the
15 unbundled network elements associated with that line, the
16 individual carrier may not designate a different access line
17 to substitute for the lost line. All unbundled network
18 elements leased to provide service over undesignated voice
19 grade equivalent access lines shall be subject to the full
20 monthly recurring rates established by the Commission in
21 accordance with the provisions of Section 13-408.

22 (d) If, as of the effective date of this Section, an
23 individual carrier uses unbundled network elements leased
24 from a specific local exchange carrier to provide local
25 exchange service over fewer than 35,000 voice grade
26 equivalent access lines, that carrier must designate the
27 access lines to which the provisions of subsections (a) and
28 (b) of this Section apply. If subsequent to such designation,
29 the individual carrier loses the customer served by a
30 designated access line, and therefore no longer leases the
31 unbundled network elements associated with that line, the
32 individual carrier may not designate a different access line
33 to substitute for the lost line. Subject to these
34 limitations, subsequent to the effective date of this

1 Section, such a carrier may designate additional voice grade
2 equivalent access lines to which it wishes the provisions of
3 subsections (a) and (b) of this Section to apply, until the
4 total designated lines equal 35,000. If a subsequently
5 designated line is lost, the carrier will not be permitted to
6 designate a different line to substitute for that lost line.
7 All unbundled network elements leased to provide service over
8 undesigned voice grade equivalent access lines shall be
9 subject to the full monthly recurring rates established by
10 the Commission in accordance with the provisions of Section
11 13-408.

12 (e) For purposes of this Section, in determining when an
13 individual telecommunications carrier has reached 35,000
14 voice grade equivalent access lines, a specific carrier, any
15 affiliate of that carrier, any carrier serving as a sales or
16 marketing agent for that carrier, and any carrier with whom
17 that carrier has a cooperative sales or marketing arrangement
18 all shall be treated as a single individual carrier.

19 (f) Notwithstanding any other provisions of this
20 Section, access lines provided to payphone service providers
21 are not eligible for the freeze or discount provided for in
22 subsections (a) and (b) of this Section. Accordingly, the
23 provisions of subsections (a) and (b) shall not apply to
24 unbundled network elements that are leased by individual
25 telecommunications carriers to provide local exchange service
26 to payphone service providers.

27 Section 99. Effective date. This Act takes effect upon
28 becoming law."