

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

The Illinois Independent Telephone Association :
: **16-0378**
: **Petition to update the Section 13-301(1)(d)** :
Illinois Universal Service Fund and for other: :
relief. :

ORDER

By the Commission:

I. PROCEDURAL HISTORY

The Illinois Independent Telephone Association (“IITA”) filed with the Illinois Commerce Commission (“Commission” or “ICC”) a verified Petition requesting that the Commission establish a long-term update to the Illinois Universal Service Fund (the “IUSF”) pursuant to Sections 13-301(1)(d) of the Illinois Public Utilities Act (the “PUA” or the “Act”), 220 ILCS 5/1-101 *et seq.*

Petitions to intervene were filed by Adams Telephone Co-Operative; Alhambra-Grantfork Telephone Co.; Cass Telephone Company; Crossville Telephone Company; Egyptian Telephone Cooperative Association.; FairPoint Communications (El Paso); Flat Rock Telephone Co-op, Inc.; Glasford Telephone Company; Grafton Telephone Company; Gridley Telephone Company; Hamilton County Telephone Co-op; Harrisonville Telephone Company; Home Telephone Company; Kinsman Mutual Telephone Company; LaHarpe Telephone Company, Inc.; Leaf River Telephone Company; Leonore Mutual Telephone Company; Madison Telephone Company; Marseilles Telephone Company; McDonough Telephone Cooperative; McNabb Telephone Company; Metamora Telephone Company; Mid-Century Telephone Cooperative; Montrose Mutual Telephone Co., Inc.; Moultrie Independent Telephone Co.; New Windsor Telephone Company, Inc.; Oneida Telephone Company; Reynolds Telephone Company; Shawnee Telephone Company; Tonica Telephone Company; Viola Home Telephone Company; Wabash Telephone Coop, Inc.; and Woodhull Telephone Company. These petitions were granted. These companies are sometimes referred to as “IITA Member Intervenors.”

Petitions to intervene were filed by Geneseo Telephone Company; Cambridge Telephone Company and Henry County Telephone Company. These petitions were granted. These companies are sometimes referred to as the “Geneseo Companies.”

Petitions to Intervene were filed by Illinois Bell Telephone Company d/b/a AT&T Illinois (“AT&T”), Gallatin River Communications, L.L.C. d/b/a CenturyLink GRC

("CenturyLink") and the Cable Television & Communications Association ("Cable Association"). These petitions were granted.

Petitions to intervene were filed by Frontier North Inc., Frontier Communications Of The Carolinas Inc., Citizens Telecommunications Company Of Illinois, Frontier Communications – Midland, Inc., Frontier Communications – Prairie, Inc., Frontier Communications – Schuyler, Inc., Frontier Communications Of Depue, Inc., Frontier Communications Of Illinois, Inc., Frontier Communications Of Lakeside, Inc., Frontier Communications Of Mt. Pulaski, Inc., and Frontier Communications Of Orion, Inc. (jointly, "Frontier" or the "Frontier Companies"). These petitions were granted.

The IITA and the IITA Member Intervenors filed direct testimony on September 7, 2016. The Geneseo Companies filed direct testimony on September 15, 2016. Pursuant to an agreed schedule set on September 29, 2016, AT&T, Frontier and Staff filed direct testimony on November 5, 2016; the IITA, the IITA Member Intervenors and the Geneseo companies filed rebuttal on December 16, 2016; AT&T, Frontier and Staff filed rebuttal testimony on January 20, 2017 and the IITA filed surrebuttal testimony on February 17, 2017. CenturyLink and the Cable Association did not file testimony.

At the hearing on March 14, 2017, testimony and exhibits were admitted into the record. At that hearing, the IITA, AT&T, Frontier and the Geneseo Companies described a "Final Stipulated Settlement" (a copy of which is attached as Appendices A and B to this Order) that resolves all issues in the proceeding, to which no other parties objected. The only difference between Appendix A and the initial Stipulation and Agreement attached to the Petition in this docket is the elimination from the Stipulation & Agreement of Paragraph 17(b), a provision excluding electing providers from the IUSF. At the conclusion of the hearings, the record was closed.

By agreement, the parties to the Final Stipulated Settlement submitted an agreed form of Proposed Order to which no parties objected.

II. SUMMARY OF POSITIONS AND RELIEF SOUGHT

The IITA requests an update to the IUSF to increase the size of the fund consistent with changes in circumstances since the initial fund was established by this Commission in 2001 in Docket Nos. 00-0233/00-0335 (the "Prior Consolidated Dockets") and updated on an interim basis in Docket Nos. 11-0210/11-0211 (the "Interim Dockets"). Although IITA presented a rate of return deficiency in excess of \$29 million, the IITA agreed through a "Stipulation & Agreement" with AT&T (attached to the Petition in this docket) to seek an updated fund size of \$25.5 million, which would be allocated to individual companies on the basis of each company's individual showing of its 2015 funding deficiency with known and measurable changes for 2016. The Stipulation & Agreement between the IITA and AT&T also included funding for the Geneseo Companies in the same \$25.5 million fund through the same allocation formula.

AT&T supports the Stipulation & Agreement, which, in addition to setting the fund size at \$25.5 million, provides that this updated fund size should remain in effect without adjustment until the Commission has completed a subsequent review of the IUSF, to be commenced by July 31, 2023, and that no increase (if any) in the total fund size resulting from such a review shall occur prior to July 31, 2023. The Stipulation & Agreement also

includes ongoing conditions related to customer pricing. The Stipulation & Agreement also included a provision stating that Electing Providers are not eligible to receive support from the fund, although the IITA and AT&T ultimately agreed to eliminate that provision as part of the Final Stipulated Settlement among the active parties.

Frontier opposed the element of the Stipulation & Agreement disqualifying Electing Providers from receiving support from the fund, prior versions of which included all eight of its requesting incumbent local exchange carrier (“ILEC”) entities, and Frontier submitted evidence showing a funding deficiency for its eight requesting ILECs approaching \$2.3 million. As part of the Final Stipulated Settlement, however, Frontier stipulated to a 2015 funding deficiency that will result in its companies receiving the same amount under the long-term IUSF that they are currently receiving under the order in the Interim Dockets (as reflected in Appendix B).

The Cable Association and CenturyLink intervened in this docket but have filed no testimony and taken no position on the long-term IUSF. All active parties support the Final Stipulated Settlement, which Staff does not oppose.

The Parties’ positions on the issues are described in more detail below.

III. STATUTORY AUTHORITY; IUSF HISTORY

The Illinois Universal Service Fund is based on the Section 13-301 of the PUA, entitled “Duties of the Commission” which states that:

- (1) Consistent with the findings and policy established in paragraph (a) of Section 13-102 and paragraph (a) of Section 13-103, and in order to ensure the attainment of such policies, the Commission shall:

* * *

- (d) investigate the necessity of and, if appropriate, establish a universal service support fund from which local exchange telecommunications carriers who pursuant to the Twenty-Seventh Interim Order of the Commission in Docket No. 83-0142 or the orders of the Commission in Docket No. 97-0621 and Docket No. 98-0679 received funding and whose economic costs of providing services for which universal service support may be made available exceed the affordable rate established by the Commission for such services may be eligible to receive support, less any federal universal service support received for the same or similar costs of providing the supported services; provided, however, that if a universal service support fund is established, the Commission shall require that all costs of the fund be recovered from all local exchange and interexchange telecommunications carriers certificated in Illinois on a competitively neutral and nondiscriminatory basis. In establishing any such universal service support fund, the Commission shall, in addition to the determination of costs for supported services, consider and make findings pursuant to subsection (2) of this Section.

Proxy cost, as determined by the Commission, may be used for this purpose. In determining cost recovery for any universal service support fund, the Commission shall not permit recovery of such costs from another certificated carrier for any service purchased and used solely as an input to a service provided to such certificated carrier's retail customers.

- (2) In any order creating a fund pursuant to paragraph (d) of subsection (1), the Commission, after notice and hearing, shall:
- (a) Define the group of services to be declared "supported telecommunications services" that constitute "universal service". This group of services shall, at a minimum, include those services as defined by the Federal Communications Commission and as from time to time amended. In addition, the Commission shall consider the range of services currently offered by telecommunications carriers offering local exchange telecommunications service, the existing rate structures for the supported telecommunications services, and the telecommunications needs of Illinois consumers in determining the supported telecommunications services. The Commission shall, from time to time or upon request, review and, if appropriate, revise the group of Illinois supported telecommunications services and the terms of the fund to reflect changes or enhancements in telecommunications needs, technologies, and available services.
- * * *
- (c) Establish an affordable price for the supported telecommunications services for the respective incumbent local exchange carrier. The affordable price shall be no less than the rates in effect at the time the Commission creates a fund pursuant to this item. The Commission may establish and utilize indices or models for updating the affordable price for supported telecommunications services.

Initially, Section 13-301(1)(d) states that the Commission shall investigate the necessity of, and if appropriate, establish a universal service fund for those carriers who received funding pursuant to the Commission's Twenty-Seventh Interim Order in Docket No. 83-0142 or the Commission's Orders in Docket Nos. 97-0621 and 98-0679. This definition of eligible carriers includes every one of the IITA Member Intervenor and the Geneseo Companies. It also includes the Frontier Companies that are seeking funding in this docket. The statute further details the Commission's obligations in establishing a universal service fund. After reviewing these provisions, the Commission in the Prior Consolidated Dockets established the basic elements of the IUSF, through the Commission's Second Interim Order, entered September 18, 2001, with the effective date of the fund being October 1, 2001.

The IITA filed this Petition pursuant to the Commission's March 6, 2013 Interim Order in Docket Nos. 11-0210/11-0211. In that Interim Order, the Commission established an interim update to the Illinois Universal Service Fund of approximately \$19 million. The Commission also ordered the IITA to initiate a docket for a long-term replacement fund by March of 2015, but extended that deadline to July of 2016 by a subsequent Order dated September 30, 2014.

IV. POSITIONS OF THE PARTIES

The Final Stipulated Settlement the parties ultimately reached, which will be described below, is the Stipulation & Agreement initially negotiated between the IITA and AT&T, with one material modification (as reflected in Appendix A in conjunction with the stipulated per-carrier deficiency stated in Appendix B and the resulting allocation also reflected in Appendix B). Therefore, this Order will first describe the positions of the parties with regard to the initial Stipulation & Agreement.

A. The IITA/AT&T Stipulation & Agreement

The initial Stipulation & Agreement, dated June 24, 2016, summarized the statutory authority for the IUSF and the history of the Commission's IUSF orders and procedures. It noted that in the Consolidated Dockets establishing the initial fund, the Commission concluded that the use of a forward-looking cost model (the HAI model) was appropriate in determining the legislatively permitted proxy cost and that the HAI model results for the group of participating small ILECs as a whole were an appropriate basis by which to determine the proxy cost of providing the supported services. Because the proxy cost for the group of participating small ILECs as a whole was significantly more than their embedded costs as demonstrated through company-specific rate of return showings on a so-called Schedule 1.01, the Commission capped the funding for each participating small ILEC at its Schedule 1.01 embedded cost using 2000 as the base year.

The Stipulation & Agreement acknowledged that, in the 2013 Interim Order (Docket No. 11-0210/11-0211 (Cons.)), the Commission again used HAI model results for the group of participating small ILECs as a whole to determine the proxy cost for the group of providing the supported services. The Commission again capped each ILEC's funding by requiring each participating small ILEC to submit a Schedule 1.01 that indicated its need using 2009 as base year. The IUSF as updated by the Interim Order establishes a total fund size of \$18,984,631 (plus administrative expenses).

The Stipulation & Agreement also acknowledged that, through the Interim Order, the Commission directed that one or more eligible recipients of the IUSF, or an organization representing them such as the IITA, file, by March of 2015 (subsequently amended to July of 2016) a petition for a long-term update to the IUSF ("Long-Term Fund"), and that any proposed Long-Term Fund be: (i) compliant with the terms and requirements of Section 13-301 of the Act, (ii) consistent with and fully reflect the Commission's concerns and admonitions, as stated in its several Orders in Docket Nos. 00-0233/00-0335 and 04-0354 regarding continued use of a rate-of-return based methodology to determine IUSF support levels, and (iii) consistent with Federal Communications Commission ("FCC") policies and rules applicable on an interstate level

to Illinois ILECs potentially eligible for IUSF support pursuant to Section 13-301(1)(d) of the Act.

The Stipulation & Agreement noted that, for the purpose of developing a proposal to comply with the Commission's directive in the 2013 Interim Order, the IITA conducted an exhaustive review of funding formats for state universal service funds as well as the federal universal service fund. The IITA's review concluded that establishing the need for a fund through a forward-looking cost model of the type that the Commission has previously used to calculate "economic costs" as required by Section 13-301(1)(d) of the Act will commonly generate a fund size in excess of what the participating small ILECs need to obtain a reasonable rate of return on investment. Accordingly, the IITA concluded that the amount of the fund should ultimately be computed based on a company-by-company analysis of revenue requirements using embedded costs and an established rate of return, as adjusted and capped through the use of a fund-size control factor.

Under the Stipulation & Agreement, the IITA identified a cost model called the Alternative Connect America Cost Model or "A-CAM," developed by CostQuest Associates in conjunction with the FCC and recently adopted for voluntary federal universal service reform. The A-CAM is widely viewed as the best available model for developing the forward-looking economic cost for rate-of-return service providers. The Stipulation & Agreement asserted that, consistent with the 2013 Interim Order, the IITA would introduce the cost module of the A-CAM, which has been licensed by the Commission for the use of the parties discussing the long-term IUSF, which develops the forward-looking economic costs for specific areas. The Stipulation & Agreement asserts that the updated forward-looking economic cost model results for all participating small ILECs as a whole should be used solely for the purpose of determining whether the carriers' "economic cost of providing services" exceeds the affordable rate for such services, which is one of the requirements under section 13-301(d)(1) for eligibility to obtain support from the IUSF. But it also concludes that the updated forward-looking cost model results should not be used for establishing the total IUSF fund size and/or individual company qualifying amounts.

The Stipulation & Agreement also provides that the same embedded cost, rate-base/rate-of-return methodology (although with some added information) used in the Prior Consolidated Dockets should be used by individual ILECs that meet the eligibility criteria of the Stipulation & Agreement.

The Stipulation & Agreement required requesting ILECs to present information and evidence based upon 2015 actual results with allowable adjustments for 2016, using a prescribed "Form 1.01" attached to the Stipulation & Agreement. The Form 1.01, as prescribed, used an after-tax cost of capital of 9.34%, which the Commission accepted this rate as a reasonable after-tax cost of capital in the 2013 Interim Order. The Stipulation & Agreement noted that use of this 9.34% after-tax cost of capital represents a compromise by the Stipulating Parties.

Consistent with the 2013 Interim Order, the Stipulation & Agreement also provided for the use of \$20.39 per month as the affordable rate for the purpose of making any and

all determinations connected with the IUSF size and individual company qualifying amounts, consistent with the requirements of Section 13-301(1)(d) and 13-301(2)(c).

The Stipulating Parties acknowledged that applying the agreed upon formula and the inputs discussed above (including rate of return and affordable rate) would result in an updated IUSF fund size in excess of \$28,500,000. The Stipulating Parties agreed that this acknowledgment reflects a compromise and should not be construed as an agreement as to the reasonableness of specific inputs. The Stipulation & Agreement set the updated IUSF fund size at \$25,500,000 (plus administrative expenses) as a reasonable compromise that satisfies the public interest and should be approved by the Commission. The Stipulation & Agreement also established that updated fund size of \$25,500,000 should remain in effect without adjustment to the total fund size until the Commission has completed a subsequent review of the IUSF, to be commenced by July of 2023, and that an increase (if any) in the fund size supported by the results of such review would not occur prior to July 31, 2023.

To reduce the total deficiency evidenced by the participating ILECs to the amount of the agreed fund size, the Stipulation & Agreement established a “fund size control factor” expressed as the percentage difference between the agreed-upon \$25.5 million fund size and the total deficiency shown across the requesting carriers. That same fund size control factor would be imputed to the Schedule 1.01 2015 deficiency showing of each participating ILEC.

The Stipulation & Agreement asserts that the proposal set forth represents a reasonable compromise and is in the public interest as it will avoid costs and uncertainty of litigation regarding the establishment of a longer-term fund and will provide for certainty and stability in the fund size for until at least July of 2023.

The Stipulation & Agreement also imposes three conditions (the second of which is being omitted under the terms of the Final Stipulated Settlement) for an ILEC to be eligible to receive support from the IUSF. Under the Stipulation & Agreement, a local exchange carrier (“LEC”) should be required to meet all of the following requirements:

- (a) the LEC must be a carrier who pursuant to the Twenty-Seventh Interim Order of the Commission in Docket No. 83-0142 or the orders of the Commission in Docket No. 97-0621 and Docket No. 98-0679 received funding as identified in Section 13-301(1)(d);
- (b) the LEC must not be an “Electing Provider” as defined in Section 13-506.2(a)(1) of the Act; and
- (c) the LEC must charge for its monthly basic local rate the higher of (i) \$20.39 or (ii) the national federal affordable benchmark used for the federal High Cost Loop Support mechanism less charges for IUSF and any mandatory extended area service (EAS) (47 C.F.R. § 51.313(h)). If an increase in the basic local rate to an amount higher than \$20.39 would be required under subsection (ii), above, and such an increase would cause the IUSF recipient’s overall rates¹ to exceed the rate ceiling used in the determination

¹ The Stipulation & Agreement explains that “Overall Rates” for purposes of this sentence include the federal end user common line charge and the Access Recovery Charge; the flat rate for residential local service

of the federal Access Recovery Charge (ARC) that is a component of federal CAF ICC (47 C.F.R. § 51.915(b)(12)) (the “Federal ARC Rate Ceiling”), then the IUSF recipient would be allowed to reduce the required increase in the basic local rate by the minimum amount necessary to avoid causing the recipient’s overall rates to exceed the Federal ARC Rate Ceiling. For purposes of this subsection 17(c), the term “basic local rate” means the monthly rate (or combination of rates) charged for residential flat rated local service (1FR or R1) or residential local measured service but does not include mandatory extended area service charges, 911 fees, federal and state TRS and USF surcharges or other fees, taxes and regulatory surcharges. Eligible Small Rate-of-Return ILECs should be required to actually charge - not impute - these rates to all residential customers, except for current unique-line handling situations (including without limitation Safety Line type service, employee concession service or any limited or restricted class of residential local service). A LEC that otherwise meets the eligibility requirements under this paragraph 17 but fails to conform to the requirements of this subparagraph 17(c) should lose eligibility on a month-by-month basis until it brings its rates into conformity with the requirement of this subparagraph 17(c).

The Stipulation & Agreement provides that, in accordance with the administrative procedures approved in the Consolidated Dockets, the Stipulating Parties agree that the Commission should order that all costs of the updated IUSF (including administrative expenses) continue to be recovered in accordance with Section 13-301(1)(d) of the Act. The basis for assessment of funding carriers will remain the same as contained in the Administrative Procedures approved by the Commission in the Consolidated Dockets.

The Stipulation & Agreement calls for the Illinois Small Company Exchange Carrier Association to continue to administer the updated IUSF. It also advocates that the Commission should not postpone consideration and approval of the updated IUSF or await possible resolution of related issues at the federal level as a result of actions taken by the FCC or as a result of changes in federal law.

The Stipulation & Agreement calls for the updated IUSF to remain in place at the same \$25.5 million annual total fund amount until there is a review and updating of the total fund size and individual company deficiency amounts. It also obligates the participating ILECs, or a representative group such as the IITA, to initiate an update of the IUSF by July of 2023 by filing a petition with the Commission seeking a review, and that no change in the total fund size resulting from that review could occur prior to July 31, 2023.

B. IITA Position

The IITA filed direct, rebuttal and surrebuttal testimony supporting all of the elements of the Stipulation & Agreement. That testimony also provided specific support

(sometimes known as the 1FR or R1 rate), mandatory extended area service charges, and state subscriber line charges; per-line state high cost and/or state access replacement universal service contributions, state E911 charges, and state telecommunications relay service (“TRS”) charges.

for the provision of the Stipulation & Agreement that would preclude Electing Providers from receiving amounts from the fund. The IITA also supported the use of the CostQuest State Broadband Cost Model ("SBCM") and submitted a default run of that model reflecting a forward-looking economic shortfall in excess of \$40 million and thus well in excess of the raw fund size for the IITA Intervenors and the Geneseo Companies (and even including the Frontier ILECs).

In addition, each of the IITA Intervenors filed direct testimony substantiating the company's 2015 funding deficiency through a Schedule 1.01 and explaining any adjustments the company made to its Schedule 1.01, including any allowable known and measurable changes for 2016. In its direct testimony, the IITA summarized the individual company Schedule 1.01s of both the IITA Intervenors and the Geneseo Companies and concluded that there was an overall funding deficiency of \$29,946,669, which required a fund control size factor of 0.851514 to be applied to the 2015 deficiency of each requesting carrier to achieve a \$25.5 million fund size (before the assessment of administrative expenses).

In response to questions raised by Staff or other corrections certain requesting carriers identified in their Schedule 1.01s, a number of IITA Intervenors filed rebuttal testimony with revised Schedule 1.01s on or before December 16, 2016. Ultimately, through IITA's surrebuttal testimony, IITA agreed with Staff witness Mary Everson's summary of each company's 2015 funding deficiency and an overall 2015 funding deficiency of \$30,060,573, which required a fund control size factor of 0.848287 to be applied to the deficiency of each requesting carrier to achieve a \$25.5 million fund size (before the assessment of administrative expenses).

The IITA also filed rebuttal and surrebuttal testimony questioning the adequacy and basis of Frontier's Schedule 1.01, asserting that Frontier did not properly allocate costs to its non-regulated businesses and asserting that Frontier improperly included as part of its rate base goodwill and non-operating expenses that had been allocated to its ILEC subsidiaries from their corporate affiliates.

Prior to the admission of any evidence in this case, the IITA participated in settlement discussions with Frontier, AT&T and the Geneseo Companies. As a result of those discussions, the IITA filed an affidavit explaining that it agreed for the purposes of the Final Stipulated Settlement that the Stipulation & Agreement should be approved, as modified only to remove the exclusion of Electing Providers which otherwise qualify for participating in the fund, thereby allowing the Frontier Companies to participate in the IUSF with a stipulated 2015 funding deficiency of \$708,328. In addition to the overall 2015 deficiency funding of all other requesting carriers (\$30,060,573) Frontier's inclusion would create a total stipulated 2015 funding deficiency of \$30,768,901, which would require a fund control factor of 0.828759 to achieve a \$25.5 million fund size (before the assessment of administrative expenses) and result in Frontier receiving the same amount (\$587,033) under the long-term IUSF that Frontier received under the Interim Order.

C. Geneseo Companies Position.

Cambridge Telephone Company and Henry County Telephone Company each filed direct testimony substantiating the respective company's 2015 funding deficiency

through a Schedule 1.01 and explaining any adjustments the respective company made to its Schedule 1.01, including any allowable known and measurable changes for 2016 (which Schedule 1.01's were included in the IITA's initial fund size). In response to certain questions raised by Staff and AT&T in their respective direct testimony, the Geneseo Companies filed rebuttal testimony addressing, among other things, affordable rate adjustments to their local service revenues and, in response to AT&T's testimony, Geneseo Telephone Company's calculation of Other Net Operating Income and Expense.

Prior to the admission of any evidence in this case, the Geneseo Companies participated in settlement discussions with the IITA, Frontier and AT&T. As a result of those discussions, and for the purposes of settlement, the Geneseo Companies agreed to the Final Stipulated Settlement (a copy of which is attached as Appendices A and B to this Order) to resolve all issues in this proceeding.

D. AT&T Illinois Position

AT&T filed direct and rebuttal testimony supporting the Stipulation & Agreement. That testimony included support for the provision of the Stipulation & Agreement stating that Electing Providers (including the Frontier Companies) are not eligible to receive support from the long-term IUSF. That testimony also questioned Geneseo Telephone Company's calculation of Other Net Operating Income and Expense on its Schedule 1.01 and raised issues similar to those raised by IITA regarding the Frontier's calculation of its Schedule 1.01 funding deficiency.

Prior to the admission of any evidence in this case, AT&T participated in settlement discussions with the IITA, Frontier and the Geneseo Companies. As a result of those discussions, AT&T advised the Commission that it agreed for the purposes of the Final Stipulated Settlement that the Commission should approve the terms of the Stipulation & Agreement as modified only to allow the Frontier Companies to participate in the IUSF with a stipulated funding deficiency of \$708,328, subject to application of the fund control factor calculated in accordance with the terms of the Stipulation & Agreement. In addition to the overall 2015 deficiency funding of all other requesting carriers (\$30,060,573) Frontier's inclusion would create a total stipulated 2015 funding deficiency of \$30,768,901, which would require a fund control factor of 0.828759 to achieve a \$25.5 million fund size (before the assessment of administrative expenses) and result in Frontier receiving the same amount (\$587,033) under the long-term IUSF that Frontier received under the Interim Order (as reflected in Appendix B).

E. Frontier Position

Frontier included eight small ILECs in Illinois that meet the definition stated in Section 13-301(1)(d) to qualify for receipt of funding because each of the eight ILECs received support pursuant to the Commission's Twenty-Seventh Interim Order in Docket No. 83-0142. Currently, as a result of Order issued in Interim Dockets, only Frontier of Lakeside, Frontier of Illinois, Frontier-Midland, Frontier-Mt. Pulaski, Frontier-Orion and Frontier-Schuylar receive annual IUSF support. In the aggregate, these companies receive \$587,033 in annual IUSF support. Each of the Frontier ILECs is an Electing Provider as defined in Section 13-506.2(a)(1) of the PUA.

In its direct and rebuttal testimony, Frontier opposed the prohibition asserted in the Stipulation & Agreement against Electing Providers participating in the IUSF. Frontier testified that the Frontier ILECs are eligible to participate in the IUSF under the clear language of the PUA and that each of the relevant Frontier ILECs are small companies, similarly situated to the IITA Intervenors. In its direct testimony, Frontier submitted summaries of Schedule 1.01s for seven of its eight small ILECs (one did not reflect a deficiency), reflecting a total deficiency funding for calendar year 2015 of \$2,320,262. In rebuttal, Frontier testified that it had properly allocated its non-regulated costs and that the goodwill and non-operating expenses were appropriately reflected in its summary Schedule 1.01s.

Prior to the admission of any testimony in this case, Frontier participated in settlement discussions with the IITA, AT&T and the Geneseo Companies. As a result of those discussions, Frontier advised the Commission that it agreed for the purposes of the Final Stipulated Settlement that the Frontier Companies support the adoption of the Stipulation & Agreement, as modified to allow for their participation in the IUSF with a stipulated funding deficiency of \$708,328. In addition to the overall 2015 deficiency funding of all other requesting carriers (\$30,060,573) Frontier's inclusion would create a total stipulated 2015 funding deficiency of \$30,768,901, which would require a fund control factor of 0.828759 to achieve a \$25.5 million fund size (before the assessment of administrative expenses) and result in Frontier receiving the same amount (\$587,033) under the long-term IUSF that Frontier received under the Interim Order (as reflected in Appendix B).

F. Staff Position

In its direct testimony, Staff witness Dr. James Zolnierrek reviewed the history of the Commission's interpretation and implementation of Section 13-301. He explained the Commission's consistently employed a two-step process in using a "forward-looking cost" model to determine the economic cost of providing service and an abbreviated rate-of-return showing to cap the recovery of each individual recipient. Both in the Consolidated Dockets and in the Interim Dockets, the Commission used a model called the HAI cost model. While the Commission found in the Consolidated Dockets that the results of the HAI determined that a need existed to establish a fund, the Commission concluded that the HAI, and the results associated with it, had significant shortcomings. The Commission found that one generalization that could safely be made is that the HAI cost model tends to significantly overestimate and overstate the costs rural companies incur in providing supported service. Thus, after determining that there was a need to establish a fund based on the HAI cost model, the Commission relied upon rate-of-return information to determine each individual company's need for IUSF funding. Thus, the Commission reduced the size of the IUSF to an amount well below the approximately \$30 million fund size that the HAI cost model, and results associated with it, generated at the time.

Similarly, in the Interim Dockets (Nos. 11-0210/11-0211), the Commission used the two-step method of establishing the amount of funding for each carrier – it determined to use of the HAI cost model for purposes of evaluating economic costs and aggregate

need for IUSF funding and then rate-of-return information to determine each individual company's need for IUSF funding.

Dr. Zolnierек observed that the IITA is proposing the same methodology in this docket, but is proposing to use a different economic cost model. Instead of the HAI cost model, IITA is proposing to use economic cost estimates from a company called CostQuest. The model is called State Broadband Cost Model ("SBCM"). He testified that the FCC currently uses a version of SBCM, CostQuest's CAM, to determine forward-looking costs for purposes of distributing federal high-cost universal service support to telecommunications providers that are currently subject to federal price-cap regulation. The FCC is similarly using CostQuest's A-CAM to determine forward looking costs for purposes of distributing federal high-cost universal service support to telecommunications providers that are currently subject to federal rate-of-return regulation. The SBCM used by IITA to evaluate costs in this proceeding is a variant of the CAM and A-CAM developed for use by state public utility commissions.

Dr. Zolnierек also testified that he was not aware of any model that would better capture a telecommunication carrier's economic costs than the SBCM. He explained that Staff solicited views from stakeholders on alternative methodologies through the workshop process that preceded initiation of this docket. Staff hosted ten workshops between January 2014 and May 2016 and repeatedly requested parties to offer alternatives to the two-step methodology. No party offered an alternative. While not perfect, the two-step methodology balances several concerns. First, consistent with requirement of Section 13-301(1)(d), it relies on economic cost estimates to identify need. Second, it recognizes that no model can provide a perfect estimate of costs that accounts for all factors that affect such costs and, in order to protect ratepayers from being required to pay excessive IUSF surcharges based on an overstated fund size, limits funding based upon each company's expected earnings. This two-step methodology is a pragmatic mechanism to distribute high-cost funding to telecommunications carriers serving high-cost areas, allowing them to charge rates that are, compared to rates charged by their more urban peers, affordable within the meaning of state and federal law.

Dr. Zolnierек compared IITA's estimated size of the fund using SBCM (over \$48 million) with the total deficiency initially submitted by the requesting carriers (just under \$30 million) as supportive of the two-step approach. He noted the agreed-upon \$25.5 million fund size (plus administrative expenses) established by the Stipulation & Agreement and concluded (subject to certain individual-company adjustments that Staff was proposing) that such a fund would support affordable telephone service in the high cost areas served by the requesting ILECs.

Dr. Zolnierек also supported the continued use of an after tax cost of capital of 9.34% for the calendar year 2015 with known and measureable changes for 2016 as a reasonable rate of return. He also supported the continued use of \$20.39 as the affordable rate, but required that any requesting carriers that were charging less than the affordable rate for basic local service (whether residential or business) impute the full affordable rate for the purposes of identifying their revenues for the Schedule 1.01 rate-of-return analysis. Based on this conclusion, he recommended that a number of the requesting carriers impute additional revenues to their Schedule 1.01s.

Staff witness Dr. Qin Liu, in her direct testimony sought additional input from a number of requesting carriers regarding the basis of their individual-company adjustments. In addition she recommended both downward and upward adjustments to the Schedule 1.01s for five carriers related to federal high cost loop support.

In her direct testimony, Staff witness Mary Everson recalculated the Schedule 1.01s of the carriers to reflect the adjustments recommended by Dr. Zolnierrek and Dr. Liu.

In rebuttal, Ms. Everson accepted certain corrections to her adjustments offered by the IITA. In addition, she recommended another downward adjustment to the Schedule 1.01 of Geneseo Telephone Company, based on questions initially raised by AT&T and IITA, resulting in a recommended finding that Geneseo had no revenue deficiency for calendar year 2015. With those adjustments, Ms. Everson summarized an overall funding deficiency excluding the Frontier Companies of \$30,060,571,² which required a fund control size factor of 0.848287 to be applied to the deficiency of each requesting carrier to achieve a \$25.5 million fund size (before the assessment of administrative expenses). Ms. Everson also provided another summary of the overall funding deficiency that included the Frontier companies under the terms of the Stipulation & Agreement prior to its modification.

In rebuttal, Dr. Liu analyzed the dispute as to whether Frontier as an Electing Provider should participate in the IUSF. Dr. Liu acknowledged that Frontier was technically eligible to participate in the fund based on a plain reading of the IUSF statute, and observed that the PUA does not explicitly bar Electing Providers from the IUSF, but also testified to certain concerns regarding Frontier's participation in the fund. For example, although the Frontier ILECs operate as eight small carriers, they are also part of a much larger entity. In addition, as Electing Providers, each of the eight Frontier ILECs, by definition, serves fully competitive exchanges. Providing a subsidy to one competitor is at odds with market regulation. Ultimately, Dr. Liu concluded that the Commission had the discretion to include or exclude Frontier from the IUSF for policy reasons. She also concluded that, if the Commission included Frontier, the Commission should adjust Frontier's support to reflect the fact that the Frontier carriers were market regulated.

Prior to the admission of evidence in this case, Staff reviewed the Final Stipulated Settlement reached by the IITA, Frontier, AT&T and the Geneseo Companies and advised the Commission that Staff had no objection to the Final Stipulated Settlement.

V. COMMISSION ANALYSIS AND CONCLUSION

The Commission finds that this case is fully settled among the active parties – IITA, Frontier, AT&T and the Geneseo Companies – that Staff has no objection and that the other parties to the docket – the Cable Association and CenturyLink – have not submitted any objection to the settlement as memorialized in the initial Stipulation & Agreement and modified by the Final Stipulated Settlement. Nevertheless, given that the result of the

² Ms. Everson's overall funding deficiency excluding the Frontier Companies is reflected as \$30,060,571 while IITA's Exhibit 4.01 which is also Appendix B to this Order reflects a stipulated overall funding deficiency excluding the Frontier Companies of \$30,060,573 due to an immaterial rounding error.

settlement is the establishment of a Long-Term Fund that will be collected from Illinois consumers and distributed to the requesting carriers, the Commission believes that it is in the public interest to provide the following analysis and conclusions.

As indicated above, Section 13-301(1)(d) provides, among other things, that the Commission shall, “if appropriate, establish a universal service support fund from which local exchange telecommunications carriers who pursuant to ... [certain] orders of the Commission ... received funding and whose economic costs of providing services for which universal service support may be made available exceed the affordable rate established by the Commission for such services may be eligible to receive support, less any federal universal service support received for the same or similar costs of providing the supported services....”

Through the Stipulation & Agreement between the IITA and AT&T Illinois, the parties sought to establish a long-term update of the IUSF with an established fund size of \$25.5 million that will continue through the completion of a docketed proceeding to be filed in 2023 and subject to certain continued minimum pricing requirements from the requesting LECs to their customers. The Stipulation & Agreement provided for an update of the IITA carriers’ current Illinois USF high-cost support, using the best known current forward-looking cost model, CostQuest’s SBCM, combined with a rate-of-return review identified as Form 1.01, also known as Schedule 1.01. This methodology had been used previously to establish the IUSF in Consolidated Docket Nos. 00-0233/0335 and in the Interim Dockets 11-0210/11-0211. And, although the Commission in the Interim Dockets directed the requesting carriers to identify an alternative method for establishing the IUSF, no party to Staff’s extensive workshops or to this docket was able to identify a better method.

As in the Interim Dockets, under the Stipulation & Agreement, the requesting carriers use an updated Form 1.01 to establish a need and their individual qualification for IUSF support. In calculating the increased amounts of support sought, the IITA utilized, as an input, an affordable rate of \$20.39 per month, which was the affordable rate established in the 00-0233 Proceeding and used a compromise cost of capital in the amount of 9.34%. No party to this docket contested any of these elements of the Stipulation & Agreement.

The Final Stipulated Settlement referred to above, stipulates to the 2015 calendar year deficiency funding as adjusted for 2016 allowable known and measurable changes for each requesting carrier. That total 2015 deficiency funding establishes an overall need of \$30,768,901. The Commission notes that the Stipulation & Agreement reflects a compromise and should not be construed as an agreement to the reasonableness and appropriateness of every such element. Pursuant to the Stipulation & Agreement, a fund control factor of 0.828759 must be applied to this stipulated 2015 fund deficiency to achieve a \$25.5 million fund size (before the assessment of administrative expenses).

In conjunction with the terms of the Stipulation & Agreement, we find that the Final Stipulated Settlement to be in the public interest. The Commission finds that the settlement provides for a reasonable increase in the fund size to reflect funding needs of eligible small ILECs since the fund was last increased in 2013. It further provides for a reasonable period of IUSF revenue certainty for the eligible small ILECs without the need

to participate in periodic, lengthy, complex and expensive individual company rate cases. In addition, by ensuring that there will be no further increases in the overall IUSF fund size for a period of over 6 years, the Final Stipulated Settlement provides a degree of cost certainty to the carriers whose customers fund the IUSF and it mitigates future increases in end user surcharges to fund the IUSF. Finally, the settlement represents a reasonable compromise of what might otherwise have been very contentious issues such as expense disallowance and rate of return.

Based on the evidence of record, the Commission finds that there should be a Long-Term Fund as proposed in the Stipulation & Agreement and as modified by the Final Stipulated Settlement among the IITA, Frontier, AT&T and the Geneseo Companies.

VI. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the record herein, finds that:

- (1) Adams Telephone Co-Operative; Alhambra-Grantfork Telephone Co.; Cass Telephone Company; Crossville Telephone Company; Egyptian Telephone Cooperative Association.; FairPoint Communications (El Paso); Flat Rock Telephone Co-op, Inc.; Glasford Telephone Company; Grafton Telephone Company; Gridley Telephone Company; Hamilton County Telephone Co-op; Harrisonville Telephone Company; Home Telephone Company; Kinsman Mutual Telephone Company; LaHarpe Telephone Company, Inc.; Leaf River Telephone Company; Leonore Mutual Telephone Company; Madison Telephone Company; Marseilles Telephone Company; McDonough Telephone Cooperative; McNabb Telephone Company; Metamora Telephone Company; Mid-Century Telephone Cooperative; Montrose Mutual Telephone Co., Inc.; Moultrie Independent Telephone Co.; New Windsor Telephone Company, Inc.; Oneida Telephone Company; Reynolds Telephone Company; Shawnee Telephone Company; Tonica Telephone Company; Viola Home Telephone Company; Wabash Telephone Coop, Inc.; and Woodhull Telephone Company all of which are small, independent local exchange companies with fewer than 35,000 access lines ("IITA Member Intervenors"), are all telecommunications carriers as defined by the Illinois Public Utilities Act;
- (2) Geneseo Telephone Company, Cambridge Telephone Company and Henry County Telephone Company ("the Geneseo Companies") are all telecommunications carriers as defined by the Illinois Public Utilities Act;
- (3) Frontier North Inc., Frontier Communications of The Carolinas Inc., Citizens Telecommunications Company of Illinois, Frontier Communications – Midland, Inc., Frontier Communications – Prairie, Inc., Frontier Communications – Schuyler, Inc., Frontier Communications of Depue, Inc., Frontier Communications of Illinois, Inc., Frontier Communications of Lakeside, Inc., Frontier Communications of Mt. Pulaski, Inc., Frontier Communications of Orion, Inc. (jointly, "Frontier") are all telecommunications carriers as defined by the Illinois Public Utilities Act;

- (4) Illinois Bell Telephone Company, d/b/a AT&T Illinois; members of the Cable Telecommunications & Communications Association, CenturyLink, Inc. are telecommunications carriers as defined by the Illinois Public Utilities Act;
- (5) the Commission has jurisdiction over the parties and subject matter in this proceeding;
- (6) consistent with the policy established in the PUA, and based on the evidence of record, the Commission finds that it is necessary and appropriate to establish a long-term update to the universal service support fund for the above-requesting ILECs;
- (7) the Commission finds that the supported services shall be the voice telephony services as defined in 47 C.F.R. § 54.101(a)(1);
- (8) the Commission finds that \$20.39 shall remain the “affordable rate” for purposes of the Long-Term Fund;
- (9) the Commission finds that the economic costs of providing services for which universal service support may be made available exceed the affordable rate established by the Commission for such services, less any federal universal service support received for the same or similar costs of providing the supported services;
- (10) the Commission finds that that the economic costs of providing the supported services for purposes of the IUSF for the IITA Member Intervenor as a group, the Geneseo Companies and the requesting Frontier ILECs are, at a minimum, equal to the proxy costs of all supported services calculated by economic cost study results introduced into evidence;
- (11) the Commission finds that all costs of the fund shall be recovered from all local exchange and interexchange telecommunications carriers certificated in Illinois on a competitively neutral and nondiscriminatory basis; and
- (12) the determinations made and conclusions reached in the prefatory portion of this Order hereinabove are hereby adopted as findings of this Order.

IT IS THEREFORE ORDERED that a long-term updated Illinois Universal Service Fund in the amount of \$25,500,000 based on the Final Stipulated Settlement attached as Appendices A and B to this Order, with the stipulated individual company 2015 funding deficiency amounts listed in Appendix B to this Order to be allocated according to the fund control factor as shown in Appendix B to this Order and IITA Exhibit 4.01 filed March 14, 2017, plus administrative expenses (the “Long-Term Fund”) shall, pursuant to Section 13-301(1)(d) of the Illinois Public Utilities Act, be implemented on the first day of the calendar month following 60 days from the date of this Order and shall, as of that date, supersede the current IUSF.

IT IS FURTHER ORDERED that, to receive support from the Long-Term Fund, as of October 1, 2017, the carriers listed in the Appendix to this Order must charge for its monthly basic local rate the higher of (i) \$20.39 or (ii) the national federal affordable benchmark used for the federal High Cost Loop Support mechanism less charges for IUSF and any mandatory extended area service (EAS) (47 C.F.R. § 51.313(h)). If an increase in the basic local rate to an amount higher than \$20.39 would be required under subsection (ii) above, and such an increase would cause the IUSF recipient's overall rates to exceed the rate ceiling used in the determination of the federal Access Recovery Charge (ARC) that is a component of federal CAF ICC (47 C.F.R. § 51.915(b)(12)) (the "Federal ARC Rate Ceiling"), then the IUSF recipient would be allowed to reduce the required increase in the basic local rate by the minimum amount necessary to avoid causing the recipient's overall rates to exceed the Federal ARC Rate Ceiling. For purposes of this ordering paragraph, the term "basic local rate" means the monthly rate (or combination of rates) charged for residential flat rated local service (1FR or R1) or residential local measured service but does not include mandatory extended area service charges, 911 fees, federal and state TRS and USF surcharges or other fees, taxes and regulatory surcharges. Eligible Small Rate-of-Return ILECs should be required to actually charge - not impute - these rates to all residential customers, except for current unique-line handling situations (including without limitation Safety Line type service, employee concession service or any limited or restricted class of residential local service). A LEC that fails to conform to the requirements of this ordering paragraph shall lose eligibility on a month-by-month basis until it brings its rates into conformity with the requirement of this ordering paragraph.

IT IS FURTHER ORDERED that not later than July 31, 2023, one or more eligible recipients of IUSF, or an organization representing them such as the IITA, shall petition the Commission for approval of an update to the IUSF to replace the Long-Term Fund.

IT IS FURTHER ORDERED that the updated fund size of \$25,500,000 shall remain in effect without adjustment until the Commission has completed its subsequent review of the IUSF, and that an increase (if any) in the fund size supported by the results of that review shall not occur prior to July 31, 2023.

IT IS FURTHER ORDERED that the supported services shall be the voice telephony services as defined in 47 C.F.R. § 54.101(a)(1).

IT IS FURTHER ORDERED that \$20.39 shall remain the "affordable rate" for purposes of the Long-Term Fund.

IT IS FURTHER ORDERED that all local exchange carriers and interexchange carriers certificated in Illinois shall contribute to the Long-Term Fund on the basis of their intrastate retail revenues, consistent with Section 13-301(1)(d) of the Act.

IT IS FURTHER ORDERED that all carriers contributing to the Long-Term Fund shall timely provide to the Fund Administrator and Staff, in the first instance, all information necessary to determine each carrier's intrastate net retail revenues.

IT IS FURTHER ORDERED that all carriers contributing to the Long-Term Fund shall recover their fund contributions from their end-user customers via an explicit end-

user surcharge on the customer's bill. The surcharge shall be assessed in a competitively neutral manner consistent with existing Illinois rules and statutes.

IT IS FURTHER ORDERED that all carriers contributing to the Long-Term Fund shall be prohibited from recovering their funding commitments from another certificated carrier for any service purchased and used solely as an input to a service provided to such certificated carrier's retail customers.

IT IS FURTHER ORDERED that the Illinois Small Company Exchange Carriers Association, Inc. is reappointed as the Fund Administrator of the Long-Term Fund and shall follow the currently approved administrative rules.

IT IS FURTHER ORDERED by the Illinois Commerce Commission that the exhibits marked and admitted as proprietary are afforded proprietary treatment, are exempt from public disclosure, and will be accessible only by parties that have signed the Protective Order, the Commission and the Commission Staff for two years after the issuance of this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 19th day of April, 2017.

SIGNED) BRIEN SHEAHAN

Chairman