

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Telecommunications Access Corporation :
: **18-0476**
Petition for annual determination of line charge and assessment pursuant to 83 Ill. Adm. Code 755.500. :

ORDER

By the Commission:

I. Introduction

On March 1, 2018, the Illinois Telecommunications Access Corporation (“ITAC”) filed with the Illinois Commerce Commission (“Commission”) a verified Petition, pursuant to 83 Ill. Adm. Code 755, containing its 2018 annual line charge and assessment filing. ITAC requests that the Commission determine and establish the charges and assessments to be applied to each line or subscription of Illinois telecommunications carriers and fixed or non-nomadic interconnected Voice over Internet Protocol (“VoIP”) providers, and to each wireless line (including prepaid wireless telecommunications service) that will fund the programs mandated by Section 13-703 of the Public Utilities Act (the “Act”). 220 ILCS 5/13-703.

ITAC requests that the Commission enter an Order maintaining the current subscriber line charge at four (4) cents per subscriber line of a telecommunications carrier. Pursuant to 83 Ill. Adm. Code 755.10, the Order should also maintain the Centrex line charge at .8 cents per line and the PBX charge at 20 cents per PBX trunk. ITAC further requests that the charge for services provisioned by T-1 lines and other advanced services mirror each carrier’s application of 9-1-1 charges. In addition, pursuant to Section 13-703(f) of the Act, ITAC requests that the Commission’s Order maintain the assessment on fixed or non-nomadic interconnected VoIP residential subscriptions at 4 cents per subscription and the assessment on fixed or non-nomadic interconnected VoIP business subscriptions at the Centrex rate of .8 cents per business subscription. Finally, pursuant to amendments to Section 13-703(f) of the Act that took effect on June 29, 2015, ITAC requests that the Commission maintain the assessment on wireless lines (other than prepaid wireless telecommunications service) at 4 cents per wireless line, and maintain the assessment on prepaid wireless telecommunications service at .15 percent of the retail transaction, as that term is defined in Section 13-703(e) of the Act. ITAC’s Petition also notes that if the Commission’s Order maintains the current line charges, telecommunications carriers will not need to file new tariffs or will not need to post

changes on their website. Pursuant to Section 755.510, ITAC requests that the Commission enter its Order without a hearing.

Commission Staff ("Staff") filed a Verified Statement in response to the Petition on March 20, 2018, supporting the proposed line charges and assessments. No petitions for leave to intervene were filed in this Docket and there are no contested issues. Because all the information necessary for the Commission to grant the requested relief is contained in the Petition, no hearing is necessary and it is waived. ITAC filed a Draft Order on April 2, 2018, which Staff reviewed.

II. ITAC's Petition and Applicable Regulatory Requirements

A. ITAC

ITAC is a not-for-profit corporation formed by all Illinois local exchange carriers ("LECs"), pursuant to authorization and direction of the Commission, to implement programs mandated by Section 13-703 of the Act. These programs (collectively called the Illinois Telecommunications Access Program or "ITAP") include distribution of text telephones ("TTYs"), amplified telephones and other assistive telecommunications devices to persons with hearing and speech disabilities, and provision of a telecommunications relay service ("TRS") which provides a means for individuals using a TTY or other telecommunications device to communicate over the telecommunications network with a hearing or speaking individual. Pursuant to 83 Ill. Adm. Code 755.105(d), all Illinois LECs, including mutual telephone companies and landline resellers, are required to be members of ITAC.

The ITAP is funded by charges or assessments on each line or subscription of Illinois telecommunications carriers and fixed or non-nomadic interconnected VoIP providers, on each wireless line and prepaid wireless retail transaction.

Section 13-703(c) of the Act provides:

The Commission shall establish a rate recovery mechanism, authorizing charges in an amount to be determined by the Commission for each line of a subscriber to allow telecommunications carriers providing local exchange service to recover costs as they are incurred under this Section.

Section 13-703(f) of the Act, as amended in Public Act 99-0006, provides:

Interconnected VoIP service providers, sellers of prepaid wireless telecommunications service, and wireless carriers in Illinois shall collect and remit assessments determined in accordance with this Section in a competitively neutral manner in the same manner as a telecommunications carrier providing local exchange service. However, the assessment

imposed on consumers of prepaid wireless telecommunications service shall be collected by the seller from the consumer and imposed per retail transaction as a percentage of that transaction on all retail transactions occurring in this state.

B. Line Charge Rule

The Commission initially set the line charge at the then-statutory maximum of 3 cents per subscriber line and 0.3 cents per Centrex line in Docket No. 85-0502 on December 11, 1985. Effective January 1, 1989, the General Assembly amended Section 13-703(c) to remove the cap on the line charge. On October 2, 1991, in Docket No. 91-0141, the Commission increased the subscriber line charge from 3 cents to 11 cents and the Centrex rate from 0.3 cents to 1.1 cents. In Docket No. 91-0141, the Commission concluded that a simplified line charge adjustment mechanism should be implemented through a rulemaking proceeding. Accordingly, on March 25, 1993, in Docket No. 91-0587, the Commission adopted Subpart F of Section 755 effective March 31, 1993, establishing a simplified annual line charge proceeding.

Since 1993, ITAC has made annual filings and the Commission has determined the line charge as required by Section 755, Subpart F. During the past five years, the line charge has ranged from 2 cents to 9 cents. The line charge amount established each year since 1993 is shown on Schedule E, attached to ITAC's Petition. Most recently, in an Order entered on April 19, 2017, in Docket No. 17-0108, the Commission increased the line charge to 4 cents per subscriber line, .8 cents per Centrex line, and 20 cents per PBX trunk, and established the assessment on fixed or non-nomadic VoIP residential subscriptions at 4 cents per subscriber line and on business subscriptions at .8 cents. It established the charge on wireless lines (other than prepaid wireless services) at 4 cents per wireless line and the assessment on prepaid wireless services at .15% of the retail transaction.

C. ITAC's 2018 Line Charge Filing

Subpart F, of Section 755 of the Commission's rules, requires ITAC to present an annual line charge filing containing various schedules for the projection period, the financial statements of ITAC, and a statement from an independent public accountant. Under Section 755.510, if the hearing is waived, the Commission must enter an Order within 45 days of ITAC's annual filing.

In its current line charge filing, ITAC projects total relay service expenses of \$1,380,450 for 2018, as compared to actual relay expenses of \$1,579,988 in 2017. The projected relay expense for 2018 is based on an estimate of the average call length applied to anticipated call volumes and contracted cost per minute amounts for captioned telephone relay ("CapTel") service, and on a fixed contractual monthly charge for traditional relay service. The estimates of average CapTel call length are based in part on actual data from 2017. ITAC's 2018 relay service expense projections reflect a

projected decrease of 19.2% in the volume of captioned telephone services, as a result of the distribution of an internet-based CapTel phone starting in 2013.

Amendments to Section 13-701 enacted by adoption of Public Act 99-0006, effective June 29, 2015, expanded ITAC's line charges and assessments to customers of wireless carriers. Accordingly, ITAC's 2018 projections contain equipment-related expenditures of approximately \$1,811,796 to purchase assistive equipment for cellular customers who are hearing-disabled and speech-disabled that is compatible with wireless telephones, as well as to purchase landline-compatible and VoIP-compatible amplified telephones, TTYs, signalers, answering machines, and equipment for speech-disabled individuals, and for other costs related to the maintenance and distribution of equipment for ITAC's voucher and loan programs. The 2018 projections reflect equipment costs that are higher than actual 2017 expenses as a result of ITAC's expansion of the voucher program to better serve speech-disabled customers and its continuing implementation of the mandate to distribute wireless-compatible equipment through the voucher program.

As ITAC's Petition notes, the Federal Communications Commission ("FCC") required that all TRS be accessed *via* 7-1-1 by October 2001. ITAC and its TRS vendor, Sprint, successfully implemented 7-1-1 access prior to the required date. As required by the FCC, ITAC's 2018 projections include educational and promotional expenses to continue to inform the public of the 7-1-1 service.

Pursuant to amendments to Section 13-703(c) and (f) enacted in Public Act 99-0006, wireless carriers and sellers of prepaid wireless telecommunications services began collecting and remitting charges and assessments in a competitively neutral manner to support ITAC's programs in July 2016. Accordingly, ITAC's 2018 projections, as adjusted, contain approximately \$5,540,900 in revenue from assessments projected to be collected and remitted by wireless carriers and sellers of prepaid wireless telecommunications service.

On June 15, 2010, Public Act 096-0927 was signed into law, creating Section 15-703(f) of the Act, which required fixed or non-nomadic interconnected VoIP providers to collect and remit assessments supporting programs for persons with hearing or speech disabilities from their end-user customers in a competitively neutral manner, and in the same manner as local exchange telecommunications carriers. Fixed or non-nomadic interconnected VoIP providers began remitting assessments to ITAC as of January 1, 2011. Accordingly, ITAC's 2018 projections, as adjusted, contain approximately \$1,623,500 in revenue from assessments projected to be collected and remitted by fixed or non-nomadic interconnected VoIP providers and telecommunications providers.

The line charge methodology of 83 Ill. Adm. Code 755.500 ensures, among other things, that ITAC maintains a sufficient, but not excessive, cash balance. This cash balance provision of the Commission's rule is critical in light of the unique status of ITAC:

ITAC, unlike public utilities, has no retained earnings, and no alternative means of raising capital. Moreover, because

public utilities regulated by this Commission charge per unit of service, greater-than-projected usage of utility services results in increased revenue as well as expenses. In contrast, the subscriber line charge, which is ITAC's principal funding source, does not produce increased revenue when usage increases.

In re: Establishment of a cost recovery mechanism for programs required by Section 13-703 of the Public Utilities Act, Docket 91-0587 (Oct. 21, 1992).

Moreover, it is important to recognize that year-to-year fluctuations in the level of the line charge are expected as a result of the mechanics of 83 Ill. Adm. Code 755.500. This is because the line charge mechanism insures a refund to telephone subscribers for amounts collected in prior years in excess of ITAC's projected net expenses, adjusted for prior year losses, current year projected losses, and an allowance for cash balance. Likewise, the mechanism requires increases if projected revenues do not cover expenses and ensures that ITAC has an adequate cash balance.

For 2018, the line charge mechanism does not require any change in the line charge and assessment primarily as a result of the current level of ITAC's cash balance, the projected revenues from assessments now collected and remitted by fixed or non-nomadic interconnected VoIP providers and wireless services, and a significant decrease in projected CapTel relay costs. All of these factors offset the projected increases in promotional expenses and the cost of equipment and distribution under the voucher program, and allow ITAC to maintain the 4-cent line charge and VoIP and wireless assessment for 2018.

ITAC's Schedules A-1 through A-12, attached to its Petition, result in a determination that, under the projection assumptions utilized, the line charge required to fund the programs mandated by Section 13-703 of the Act for the period July 1, 2018 through June 30, 2019 is 4 cents per telecommunications carrier line, wireless line (other than prepaid wireless telecommunications service), and fixed or non-nomadic interconnected VoIP residential subscription. The competitively neutral rate to be assessed per retail transaction for prepaid wireless telecommunications service customers is .15% per retail transaction. Pursuant to 83 Ill. Adm. Code 755.10, one line charge shall be applied for each five Centrex lines and five charges shall be applied for each PBX trunk. Accordingly, ITAC requests that a charge of .8 cents be assessed per Centrex line and per VoIP business subscription, and 20 cents per PBX trunk. Also pursuant to 83 Ill. Adm. Code 755.10, the charge for other multi-channel technologies is stated in ITAC's tariff, Ill.C.C. No. 3, original page 3.1, which provides that "charges for services provisioned by T-1 lines and other advanced services shall mirror the carrier's applications of 9-1-1 charges for bills issued on and after June 1, 2004. . ."

ITAC's Petition also includes its audited financial statements, as of December 31, 2017, as required by 83 Ill. Adm. Code 755.500(a)(1), its projected statement of financial position, projected statement of activities, projected statement of cash flows, and

summary of significant projection assumptions and accounting policies for the projection period, as required by 83 Ill. Adm. Code 755.500(a)(2). As required by 83 Ill. Adm. Code 755.500(a)(4), the Petition also includes the written opinion of an independent accounting firm that ITAC's projection statement of financial position and statements of activities and cash flows comply with the guidelines for presentation of a projection established in the "Guide for Prospective Financial Information" by the American Institute of Certified Public Accountants and that ITAC's underlying assumptions provide a reasonable basis for management's projections (given the hypothetical assumptions used), as required by Section 755.500(a)(4). Additionally, the Petition states that within ten days of its filing, ITAC will publish notice of the Petition in accordance with Section 755.515(a).

ITAC's Petition explains that, in order for the Illinois Department of Revenue to impose (or change) the assessment on prepaid wireless retail transactions on July 1, the Department must have notice of the assessment by May 1 of each year. Accordingly, ITAC filed its annual petition for determination of the line charge and assessment a month prior to the statutory deadline, and requested that the Commission issue its Order on or before May 1, 2018, to become effective on July 1, 2018. ITAC states that if the Commission Order is issued on or before May 1, prepaid wireless remittances can be implemented by the Department of Revenue on July 1, 2018, assuring competitive neutrality by implementing all line charges and assessments on the same date.

ITAC notes that if the Commission approves its request to maintain the current line charge and VoIP assessment as described above, it will not be necessary for ITAC's member telecommunications carriers, including telecommunications carriers that provide the resale of telecommunications services as defined in Section 13-211 of the Act, to file new tariffs or post the new charges on their website.

III. Potential Impact of Industry Trends on ITAC's Line Charge and Assessment

ITAC points out that the line charge methodology of Section 755.500 was enacted 25 years ago. Since that time, ITAC has operated without requesting emergency or interim adjustments to the line charge (pursuant to Section 755.520), and without curtailing programs or services for budgetary reasons. During that period, the line charge has ranged from 2 cents to 15 cents per subscriber line, averaging 7.7 cents over the 25 years.

ITAC notes that if the FCC determines that some of the costs of Internet-based TRS should be allocated to the states, the impact on ITAC's line charge and VoIP and wireless assessment could be significant.

ITAC's line charge calculation spreads its projected operating costs over all landline subscriber lines, wireless lines (including prepaid wireless service), and fixed or non-nomadic interconnected VoIP subscriptions in Illinois. There has been a significant decrease in the number of Illinois landline subscriber lines over the last decade and more. ITAC notes that the decline in landline subscriber lines since 1999 has been paralleled

by growth in cellular telephone customers. For 2018, ITAC projects approximately 11.5 million subscribers of wireless carriers (including prepaid wireless telecommunications service customers), approximately 2.5 million telecommunications carrier lines and equivalents, and approximately 0.85 million fixed or non-nomadic interconnected VoIP assessments and equivalents.

IV. Staff's Response

In response to ITAC's Petition, Staff submitted the Verified Statement of Mary H. Everson on March 20, 2018. Ms. Everson, a Certified Public Accountant, states that she has reviewed the Petition and supporting documentation and has conducted a field review of ITAC's records. Staff Verified Statement at 3. Based on her review, Ms. Everson "identified no reason to contest" ITAC's proposed line charges. *Id.*

Ms. Everson notes that Section 13-703(c), as amended by Public Act 99-0006, establishes 60 days for telecommunications carriers, wireless carriers, Interconnected VoIP providers and sellers of prepaid wireless telecommunications service to implement the new rate established by the Commission's Order. The new assessment on prepaid wireless service is implemented by the Illinois Department of Revenue ("IDOR"). Ms. Everson points out that IDOR can only implement changes in January or July of each year, and requires 60 days' notice in order to implement a change. To assure competitive neutrality with implementation dates that are consistent from year to year when a change in the rate or assessment is necessary, Ms. Everson concurs with ITAC's request that the Commission enter an Order in this proceeding by May 1, 2018. *Id.* at 4. Ms. Everson notes that this will enable ITAC, IDOR and the telecommunications carriers to be in compliance with Section 13-703(c) as amended by Public Act 99-0006. *Id.*

Ms. Everson further notes that Section 13-501(c) of the Act allows telecommunications carriers that are able to post service rates, terms or conditions on the carrier's website instead of filing tariffs.

Ms. Everson recommends proposed language to be included in the Order in this case, and recommends that the Order require all Illinois local exchange carriers either to file tariffs with the Commission or to implement website postings pursuant to Section 13-501(c), in compliance with the Commission's Order within 15 days of the date of the Order. *Id.* at 4-5

V. Commission Analysis and Conclusion

ITAC's annual line charge filing is supported by the required schedules and properly utilizes a projection period of January 1, 2018 through December 31, 2018. Those schedules support ITAC's request for a charge on telecommunications carrier subscriber lines and wireless lines (other than prepaid wireless telecommunications service) and an assessment on residential VoIP subscriptions of 4 cents per month, a Centrex line charge and business VoIP assessment of .8 cents per month, a PBX trunk charge of 20 cents per month, and an assessment on prepaid wireless

telecommunications service of .15% of the retail transaction. Charges for services provisioned by T-1 lines and other advanced services shall mirror each company's application of 9-1-1 charges.

Any carriers whose current tariffs do not reflect the rates ordered herein are directed to file tariffs or to implement website postings in compliance with this Order within 15 days of the date of this Order and without further notice.

These charges should take effect with bills rendered on or after July 1, 2018 or at the beginning of the first cycle after July 1, 2018. All VoIP providers and wireless carriers (other than prepaid wireless telecommunications service) should reflect the assessments on bills rendered on or after July 1, 2018 or at the beginning of the first billing cycle after July 1, 2018. Sellers of prepaid wireless telecommunications service should implement the assessment effective with purchases on and after July 1, 2018.

VI. Findings and Ordering Paragraphs

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the parties and the subject matter herein;
- (2) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (3) ITAC has complied with the requirements of 83 Ill. Adm. Code 755 Subpart F, Line Charge and Assessment Adjustment Mechanism;
- (4) the line charges under Section 13-703(c) of the Act shall be 4 cents per telecommunications carrier line, .8 cents per Centrex line, and 20 cents per PBX trunk; charges for services provisioned by T-1 and other advanced services shall mirror the carrier's application of 9-1-1 charges;
- (5) the assessment under Section 13-703(f) of the Act on each fixed or non-nomadic interconnected VoIP subscription shall be 4 cents per residential subscription and .8 cents per business subscription;
- (6) the line charge under Section 13-703(f) of the Act on each wireless carrier (other than providers of prepaid wireless telecommunications service) shall be 4 cents per wireless line;
- (7) the charge imposed by sellers of prepaid wireless telecommunications service shall be .15% of the retail transaction;

- (8) each Illinois LEC, each fixed or non-nomadic interconnected VoIP provider, each Illinois wireless carrier, and the Director of the Illinois Department of Revenue shall be served with a copy of this Order;
- (9) all Illinois LECs shall be directed, within 15 days of the date of this Order, and without further notice, to file a tariff that reflects the line charges required by this Order or to post the line charges on its website; such tariffs and charges should become effective with bills rendered on or after July 1, 2018, provided, however that to the extent any Illinois LEC's tariffs as currently on file reflect the rates ordered herein, such LECs need not file revised tariffs;
- (10) the following language should be used by each Illinois local exchange carrier that is required to file a tariff in compliance with Finding (9):

Pursuant to the Order dated April 19, 2018, of the Illinois Commerce Commission in Docket 18-0476, _____ shall impose a supplemental charge of 4 cents per month per line for all Illinois telecommunications carriers, including wireless carriers (other than prepaid wireless carriers) and VoIP residential subscriber lines, a charge of .8 cents per VoIP business subscriber lines, a charge of .8 cents per line for all Centrex lines and a charge of 20 cents per PBX trunk. Charges for services provisioned by T-1 lines and other advanced services shall mirror _____ Company's application of 9-1-1 charges. The assessment on prepaid wireless transactions is established at .15% of prepaid retail transactions, to be implemented by the Illinois Department of Revenue. These charges shall be effective with bills rendered or transactions occurring on or after July 1, 2018 or at the beginning of the first cycle after July 1, 2018.

- (11) all Illinois VoIP providers and wireless carriers (other than providers of prepaid wireless telecommunications service) should reflect the assessments on bills rendered on or after July 1, 2018 or at the beginning of the first billing cycle after July 1, 2018; and
- (12) sellers of prepaid wireless telecommunications service shall implement the assessment effective with retail purchases on and after July 1, 2018.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the relief requested in the Petition filed by the Illinois Telecommunications Access Corporation is granted and, pursuant to Section 13-703(c) of the Act, the line charge shall

be maintained at 4 cents per subscriber line and .8 cents per Centrex-type line, effective with bills rendered on or after July 1, 2018 or at the beginning of the first cycle after July 1, 2018.

IT IS FURTHER ORDERED that a charge of 20 cents shall be applied to each PBX trunk, effective with bills rendered on or after July 1, 2018 or at the beginning of the first cycle after July 1, 2018.

IT IS FURTHER ORDERED that charges for services provisioned by T-1 and other advanced services shall mirror the carrier's application of 9-1-1 charges.

IT IS FURTHER ORDERED that, pursuant to Section 13-703(c) and (f) of the Act, the assessment for fixed or non-nomadic interconnected VoIP subscriptions shall be established at 4 cents per residential subscription and .8 cents per business subscription.

IT IS FURTHER ORDERED that, pursuant to Section 13-703(c) and (f) of the Act, the line charge for lines of wireless carriers (other than for prepaid wireless telecommunications service) shall be 4 cents per line.

IT IS FURTHER ORDERED that, pursuant to Section 13-703(c) and (f) of the Act, the assessment on prepaid wireless telecommunications service shall be .15% of the retail transaction.

IT IS FURTHER ORDERED that a copy of this Order shall be served by the Chief Clerk of the Commission on all Illinois local exchange carriers, wireless carriers, fixed or non-nomadic interconnected VoIP providers, and the Director of the Illinois Department of Revenue.

IT IS FURTHER ORDERED that all local exchange carriers whose current tariffs do not reflect the rates ordered herein are hereby directed to file tariffs in compliance with this Order or to update their website postings within 15 days of the date of this Order and without further notice, to become effective with bills rendered on or after July 1, 2018 or at the beginning of the first cycle after July 1, 2018.

IT IS FURTHER ORDERED that all Illinois VoIP providers and wireless carriers (other than prepaid wireless telecommunications service) shall reflect the charge or assessment on bills rendered on or after July 1, 2018 or at the beginning of the first billing cycle after July 1, 2018.

IT IS FURTHER ORDERED that sellers of prepaid wireless telecommunications service shall implement the assessment effective with retail purchases on and after July 1, 2018.

IT IS FURTHER ORDERED that pursuant to Section 10-113(a) of the Public Utilities Act and 83 Ill. Adm. Code 200.880, any application for rehearing shall be filed within 30 days after service of the Order on the party.

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, 2018.

(SIGNED) BRIEN SHEAHAN

Chairman