

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Telecommunications Access Corporation :
: **12-0242**
Petition for annual line charge and assessment determination pursuant to 83 Ill. Adm. Code 755.500. :

ORDER

By the Commission:

I. Introduction

On March 29, 2012, the Illinois Telecommunications Access Corporation ("ITAC") filed with the Illinois Commerce Commission ("Commission") a verified Petition, pursuant to 83 Ill. Adm. Code Part 755, containing its 2012 annual line charge filing. ITAC requests that the Commission determine and establish the charge and assessment to be applied to each line or subscription of Illinois telephone and fixed or non-nomadic interconnected Voice over Internet Protocol (VoIP) subscribers, to fund the telecommunications access programs mandated by Section 13-703 of the Illinois Public Utilities Act (220 ILCS 5/13-703) (the "Act").

Specifically, ITAC requests that the Commission enter an Order decreasing the line charge from 8 cents per subscriber line to 6 cents per subscriber line. Pursuant to 83 Ill. Adm. Code 755.10, the order should also reduce the Centrex charge to 1.2 cents per Centrex line and the PBX charge to 30 cents per PBX trunk. ITAC also requests pursuant to Section 13-703(f) of the Act, that the Commission's order establish the assessment on fixed or non-nomadic interconnected VoIP residential subscriptions at 6 cents per subscription, and the assessment on fixed or non-nomadic interconnected VoIP business subscriptions at the Centrex rate of 1.2 cents per business subscription.

Commission Staff ("Staff") filed a Response to the Petition on April 4, 2012, supporting the proposed line charges. No petitions for leave to intervene were filed in this Docket and there are no contested issues. Because all of the information necessary for the Commission to grant the requested relief is contained in the petition, no hearing is necessary and it is waived.

II. ITAC Petition and Applicable Regulatory Requirements

ITAC is a not-for-profit corporation formed by all Illinois local exchange telecommunications carriers ("LECs"), pursuant to authorization and direction of the

Commission, to implement programs mandated by Section 13-703 of the Act. These programs include distribution of TTY's, 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 755.1059d), all Illinois LECs, including mutual telephone companies and resellers, are required to be members of ITAC. 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.

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 85-0502, 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, the Commission in Docket 91-0141 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 91-0587, the Commission concluded that a simplified subscriber line charge mechanism should be implemented through a rulemaking proceeding. On March 25, 1993, the Commission adopted Subpart F of 83 Ill. Adm. Code 755 effective March 31, 1993, establishing a simplified annual line charge proceeding. Since 1993, the Commission has determined the line charge annually according to the formulas established in 83 Ill. Adm. Code 755.500.

The amendments to Part 755 require 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. If the hearing is waived under Part 755.510, the Commission must enter an Order within 45 days of ITAC's annual filing.

Since 1993, ITAC has made annual filings and the Commission has determined the line charge as required by Section 755, Subpart F. By an Order entered on May 13, 2009, in Docket No. 09-0182, the Commission increased the previous ITAC line charges from 6 cents to 8 cents per subscriber line, 1.2 to 1.6 cents per Centrex line, and from 30 cents to 40 cents per PBX trunk. In an Order on Rehearing entered on June 25, 2010 in Docket No. 10-0245, the Commission maintained the line charge at 8 cents per subscriber line, 1.6 cents per Centrex line, and 40 cents per PBX trunk. Most recently, in an order entered on May 24, 2011 in Docket No. 11-0316, the Commission again maintained the line charge at 8 cents per subscriber line, 1.6 cents per Centrex line and 40 cents per PBX trunk. The Commission also established the assessment on fixed, non-nomadic VoIP residential subscriptions at 8 cents per subscription and on business subscriptions at 1.6 cents per subscription.

On June 15, 2010, Public Act 096-0927 was signed into law creating Section 13-703(f) of the Act (220 ILCS 5/13-703(f)), which provides:

Interconnected VoIP service providers 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. Interconnected VoIP services shall not be considered an intrastate telecommunications service for the purposes of this Section in a manner inconsistent with federal law or Federal Communications Commission regulation.

Section 13-703(f) requires fixed or non-nomadic interconnected VoIP providers to collect and remit assessments supporting programs for persons with speech or hearing disabilities from their end-user customers in a competitively neutral manner in the same manner as a telecommunications carrier providing local exchange service. Accordingly, the assessment on each fixed or non-nomadic interconnected VoIP subscription should be 6 cents per residential subscription, and 1.2 cents (the Centrex rate) for each business subscription. Fixed or non-nomadic interconnected VoIP providers began remitting assessments to ITAC as of January 1, 2011. ITAC's 2012 projections contain approximately \$490,000 in revenue from assessments projected to be collected and remitted by fixed or non-nomadic interconnected VoIP 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). It is also 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 (see Schedule A-1) provides a refund to telephone subscribers for amounts collected in excess of ITAC's projected net expenses, adjusted for prior year losses and an allowance for cash balance. Moreover, the mechanism requires increases if projected revenues do not cover expenses, plus an adequate cash

balance. For 2012, the line charge mechanism requires a decrease of 2 cents per subscriber line in the subscriber line charge and VoIP residential assessment as a result of the current level of ITAC's cash balance and the additional projected revenues from assessments collected and remitted by fixed or non-nomadic interconnected VoIP providers.

ITAC projects total relay service expenses of \$2,909,955 for 2012, compared to actual relay expenses of \$2,942,679 in 2011. The projected relay expense for 2012 is based on an estimate of the average call length applied to anticipated call volumes and contracted cost per minute amounts, for both standard telecommunications relay service and CapTel captioned relay service. The estimates of average call length are based on actual data from 2011. ITAC's 2012 TRS expense projections reflect an estimated 16.70% decrease in traditional relay call volumes, compared to 2011 actual call volumes, offset by an increase in the TRS per minute cost of 5 cents per minute of use beginning February 1, 2012. The 2012 TRS expense projections also reflect a projected increase of 16.3% in the volume of captioned telephone service, offset by no change in the contractual price of CapTel service.

The Petition also notes that 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 2011 projections include educational and promotional expenses to continue to inform the public of the 7-1-1 service.

In Docket 03-0357, December 17, 2003, the Commission amended Part 755 to require, *inter alia*, that ITAC implement a voucher program for distribution of assistive telecommunications equipment and to permit ITAC to offer a wider range of equipment. ITAC projects 2012 equipment-related expenditures of approximately \$821,191 to purchase TTYs and signalers, and for other costs related to maintenance of phones for the voucher program. This increase is partly the result of the anticipated exchange of amplified telephones and TTYs distributed in 2008 or earlier, as provided in ITAC's tariff. The 2102 projections reflect slightly increased administrative expenses compared to 2011 expenses, primarily the result of expected cost increases due to inflation.

ITAC's Schedules A-1 through A-12, attached to the Petition, were prepared in accordance with the methodology required by 83 Ill. Adm. Code 755.500(b) through 755.500(e). This methodology resulted in a determination that, under the projection assumptions, the line charge required to fund the programs mandated by Section 13-703 of the Act for the period January 1, 2012 through December 31, 2012 shall be 6 cents per subscriber line and per fixed on non-nomadic interconnected VoIP residential subscription. The amendment of 83 Ill. Adm. Code 755.10 in Docket 03-0357 provided that one subscriber line charge shall be applied for each five centrex lines and five charges for each shall be applied for each PBX trunk. Accordingly, 1.2 cents should be assessed per centrex line and per VoIP business subscription, and 30 cents should be assessed per PBX trunk. Part 755.10 also states that the charge for services

provisioned by T-1 lines and other advanced services shall mirror the carrier's 9-1-1 charges for bills issued on and after June 1, 2004.

Scheduled B attached to the petition contains ITAC's audited financial statements as of December 31, 2011, as required by 83 Ill. Adm. Code 755.500(a)(1). Schedules C-1 through C-3 attached to the petition are ITAC's projected statement of financial position (C-1), projected statement of activity (C-2) and projected statement of cash flows (C-3), as required by 83 Ill. Adm. Code 755.500(a)(2). Attached Schedule D contains a summary of significant projection assumptions and accounting policies for the projection period, also required by Part 755.500(a)(2), as well as a statement that the data contained on Schedules C-1 through C-3 conform to guidelines for presentation of a projection and that underlying assumptions provide a reasonable basis for managements projections, as required by Part 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).

III. Potential Impact of New Technology on ITAC's Line Charge

Since the line charge methodology of Part 755.500 was enacted 19 years ago, ITAC has operated without requesting emergency or interim adjustments to the line charge, and without curtailing programs or services for budgetary services. During the 19 years, the line charge has averaged 8.21 cents, ranging from 3 cents to 15 cents per subscriber line. ITAC asserts that costs could rise if the Federal Communications Commission ("FCC") allocates some costs of Internet-based relays services to the states. The FCC currently encourages relay providers to offer Video Relay Services ("VRS"), Internet Protocol ("IT") relay and IP Captioned Telephone Relay Services ("IP CTS"). The user of each service connects to a Communications Assistant ("CA") through the Internet, rather than the Public Switched Telephone Network ("PSTN"). Relays from the CA to the called party travel over the PSTN. All calls are compensated through the Interstate TRS Fund and these forms of TRS are not currently mandatory. However, the FCC stated in 2007 that it would reexamine cost recovery of Internet-based TRS and if it determines that some Internet-based TRS costs should be allocated to the states, the impact on ITAC's line charge and VoIP assessment could increase significantly.

CapTel relay service costs could also put pressure on ITAC's line charge and VoIP assessment in the future. Minutes of use of CapTel relay service are increasing as more users avail themselves of the service. Also, the price-per-minute of CapTel service has been rising, while usage of traditional TRS has been decreasing in Illinois. Consequently, CapTel relay expenses in Illinois are projected to be almost two-and-one-half times larger than traditional TRS costs in 2012.

ITAC also points out that the line charge and VoIP assessment will also be impacted in the future by the decline in local exchange carrier subscriber lines in Illinois. ITAC's line charge calculation spreads its projected operating costs (net of revenue)

over all landline subscriber lines and now over 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. This continued decline in subscriber lines and equivalents, even with the addition of assessments on certain VoIP subscriptions which began in 2011, puts upward pressure on ITAC's line charge and assessment. ITAC notes that, while the impact on the line charge and assessment has been mitigated by the requirement that ITAC use a three-year historical average in projecting its subscriber lines and by the addition of assessments on certain VoIP subscriptions, the continuing decline in landline subscriber lines has had and will continue to have an impact on the charge per line and the assessment per VoIP subscription needed to fund ITAC's programs.

V. Staff Response

Staff filed its response to ITAC's Petition on April 4, 2012. Staff states that it has reviewed the Petition and supporting documentation, and has conducted a field review of ITAC's records. Staff finds no reason to contest ITAC's proposed line charges.

Staff also noted in its response that 83 Ill. Adm. Code 755.510(c) requires each carrier to file a tariff within 15 days of entry of the order. To facilitate companies in filing the required tariff, Staff proposed the following language:

Pursuant to the Order dated May ____, 2012, of the Illinois Commerce Commission in Docket 12-0242, _____ Company will impose a supplemental charge of 6 cents per month per line for all Illinois telephone and VoIP subscriber lines other than Centrex-type and PBX lines, a charge of 1.2 cents for each Centrex-type line, and a charge of 30 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. These charges shall be effective with bills rendered on or after June 1, 2012 or at the beginning of the first cycle after June 1, 2012.

VI. Commission Analysis and Conclusion

ITAC's annual line charge filing is supported by the required schedules and properly uses a projection period of January 1, 2011 through December 31, 2011. Those schedules sustain ITAC's request for a subscriber line charge and residential VoIP assessment of 6 cents, a Centrex line charge and business VoIP assessment of 1.2 cents, and a PBX trunk charge of 30 cents. Charges for services provisioned by T-1 lines and other advanced services shall mirror each company's application of 9-1-1 charges.

The Commission agrees with Staff that, pursuant to Part 755.510(c), the order should require all carriers to file a new tariff within 15 days of the date of this Order to reflect the correct line charges. These tariffs should take effect with the bills rendered on or after June 1, 2012, or at the beginning of the first billing cycle after June 1, 2012. The Commission agrees with ITAC that all VoIP providers should reflect the new assessments on bills rendered on or after June 1, 2012 or at the beginning of the first billing cycle after June 1, 2012.

VII. 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 Part 755 Subpart 5, Line Charge Adjustment Mechanism;
- (4) the line charge under Section 13-703(c) of the Act shall be 6 cents per subscriber line, 1.2 cents per Centrex line, and 30 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 6 cents per residential subscription and 1.2 cents per business subscription;
- (6) each Illinois LEC and each fixed or non-nomadic interconnected VoIP provider shall be served with a copy of this Order;
- (7) any Illinois LEC whose current tariffs do not reflect the correct line charge amounts shall be directed to file, within 15 days of the date of this Order, and without further notice, a tariff that reflects the line charges required by this Order; such tariffs shall become effective on or after June 1, 2012 or at the beginning of the first billing cycle after June 1, 2012;
- (8) the following language proposed by Commission Staff should be used by each Illinois LEC when complying with Finding (7):

Pursuant to the Order dated May____, 2011, of the
Illinois Commerce Commission in Docket 11-0316,
_____ Company will impose a

supplemental charge of eight cents per month per line for all Illinois telephone and VoIP subscriber lines other than Centrex-type and PBX lines, a charge of 1.6 cents for each Centrex-type line, and a charge of 40 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. These charges shall be effective with bills rendered on or after June 1, 2011 or at the beginning of the first cycle after June 1, 2011.

- (9) all VoIP providers should reflect the new assessments on bills rendered on or after June 1, 2012 or at the beginning of the first billing cycle after June 1, 2012.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the relief requested in the Petition filed by the Illinois Telephone Access Corporation is granted and, pursuant to Section 13-703(c) of the Act, the line charge shall be 6 cents per subscriber line and 1.2 cents per centrex line, effective with the bills rendered on or after June 1, 2012, or at the beginning of the first billing cycle after June 1, 2012.

IT IS FURTHER ORDERED that a charge of 30 cents shall be applied to each PBX trunk, effective with the bills rendered on or after June 1, 2012, or at the beginning of the first billing cycle after June 1, 2012.

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(f) of the Act, the assessment for fixed or non-nomadic interconnected VoIP subscriptions shall be established at 6 cents per residential subscription and 1.2 cents per business subscription.

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

IT IS FURTHER ORDERED that any local exchange carriers with tariffs that do not reflect the current line charges are hereby directed to file tariffs in compliance with this Order within 15 days of the date of this Order and without further notice.

IT IS FURTHER ORDERED that all VoIP providers should reflect the new assessments on bills rendered on or after June 1, 2012, or at the beginning of the first billing cycle after June 1, 2012.

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 2nd day of May, 2012.

(SIGNED) DOUGLAS P. SCOTT

Chairman