

1 AMENDMENT TO HOUSE BILL 875

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 875, by replacing  
3 everything after the enacting clause with the following:

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

6 (220 ILCS 5/13-408 new)

7 Sec. 13-408. Rates for unbundled loops provided as part  
8 of an unbundled network element platform. This Section  
9 applies to and covers certain unbundled network element rates  
10 that shall be charged by incumbent local exchange carriers  
11 that are subject to regulation under an alternative  
12 regulation plan under Section 13-506.1 of this Act. The  
13 General Assembly finds and determines that it should provide  
14 direction to the Illinois Commerce Commission regarding the  
15 establishment of the monthly recurring tariffed rates that  
16 such incumbent local exchange carriers shall charge other  
17 telecommunications carriers for unbundled loops provided in  
18 combination with other unbundled network elements as part of  
19 a network elements platform in order to ensure (i) that such  
20 rates shall not significantly impair the incumbent local  
21 exchange carrier's ability to raise capital on reasonable  
22 terms or maintain a reasonable capital structure and (ii)

1 that such incumbent local exchange carriers are able to  
2 recover the efficient, forward-looking costs of creating,  
3 operating, and maintaining the network outside plant  
4 infrastructure capacity and switching and transmission  
5 network capacity necessary to permit such incumbent local  
6 exchange carriers to meet in a timely and adequate fashion  
7 the obligations imposed by Section 8-101 of this Act. Nothing  
8 contained in this Section 13-408 shall be deemed to relieve  
9 an incumbent local exchange carrier from its burden of proof  
10 under State or federal law with respect to these rates.

11 The Illinois Commerce Commission shall set the recurring  
12 rates affected incumbent local exchange carriers receive for  
13 unbundled loops provided in combination with other unbundled  
14 network elements as part of a network elements platform in  
15 accordance with the requirements delineated below.

16 (a) Cost of capital. The General Assembly directs that  
17 the Illinois Commerce Commission, in calculating the cost of  
18 capital, shall employ an evaluation that considers (i) the  
19 current cost of capital, (ii) bypass of the incumbent local  
20 exchange carrier's telecommunications network, (iii) the  
21 regulatory risks assumed and created by the Federal  
22 Communications Commission's unbundled network element costing  
23 methodology, and (iv) the effect of increased risks because  
24 of wholesale customer bankruptcies and bad debt. The General  
25 Assembly finds that such evaluation shall also consider (i)  
26 the risks associated with a forward-looking, competitive  
27 telecommunications marketplace and (ii) a long-term analysis  
28 that mitigates the impacts of transitory short-term  
29 fluctuations in the telecommunications industry. In addition,  
30 the Commission shall adjust all existing tariffed monthly  
31 recurring rates for unbundled loops provided in combination  
32 with other unbundled network elements as part of a network  
33 elements platform that are currently in effect to make such  
34 rates consistent with this provision.

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

20       Section 99. Effective date. This Act takes effect upon  
21       becoming law."