

1 AN ACT concerning public utilities.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Public Utilities Act is amended by
5 changing Sections 4-202, 4-203, 5-107, 5-109, 5-202, and
6 10-105 and adding Section 5-202.1 as follows:

7 (220 ILCS 5/4-202) (from Ch. 111 2/3, par. 4-202)

8 Sec. 4-202. Action for injunction. Whenever the
9 Commission shall be of the opinion that any public utility is
10 failing or omitting or about to fail or omit, to do anything
11 required of it by law, or by any order, decision, rule,
12 regulation, direction, or requirement of the Commission,
13 issued or made under authority of this Act, or is doing
14 anything or about to do anything or permitting anything or
15 about to permit anything to be done, contrary to or in
16 violation of law or any order, decision, rule, regulation,
17 direction, or requirement of the Commission, issued or made
18 under authority of this Act, the Commission shall file an
19 action or proceeding in the circuit court in and for the
20 county in which the case or some part thereof arose, or in
21 which the person or corporation complained of, if any, has
22 its principal place of business, or in which the person
23 complained of, if any, resides, in the name of the People of
24 the State of Illinois, for the purpose of having the
25 violation or threatened violation stopped and prevented,
26 either by mandamus or injunction.

27 The Commission may express its opinion in a resolution
28 based upon whatever facts and evidence have come to its
29 attention and may issue the resolution ex parte and without
30 holding any administrative hearing before bringing suit.
31 Except in cases involving an imminent threat to the public

1 health or public safety, no such resolution shall be adopted
2 until 48 hours after the public utility has been given notice
3 of (i) the substance of the alleged violation, including a
4 citation to the law or order, decision, rule, regulation, or
5 direction of the Commission alleged to have been violated and
6 (ii) the time and date of the meeting at which such
7 resolution will first be before the Commission for
8 consideration.

9 The Commission shall file the action or proceeding by
10 complaint in the circuit court, alleging the violation or
11 threatened violation complained of, and praying for
12 appropriate relief by way of mandamus or injunction. It
13 shall thereupon be the duty of the court to specify a time,
14 not exceeding 20 days after the service of the copy of the
15 complaint, within which the public utility complained of must
16 answer the complaint, and in the meantime said public utility
17 may be restrained. In case of default in answer, or after
18 answer, the court shall immediately inquire into the facts
19 and circumstances of the case. Such corporation or persons
20 as the court may deem necessary or proper to be joined as
21 parties, in order to make its judgment, or order effective,
22 may be joined as parties. The final judgment in any action
23 or proceeding shall either dismiss the action or proceeding
24 or grant relief by mandamus or injunction or be made
25 permanent as prayed for in the complaint, or in such modified
26 or other form as will afford appropriate relief. An appeal
27 may be taken from such final judgment as in other civil
28 cases.

29 (Source: P.A. 84-617.)

30 (220 ILCS 5/4-203) (from Ch. 111 2/3, par. 4-203)

31 Sec. 4-203. Action to recover penalties.

32 (a) All civil penalties established under this Act shall
33 be assessed and collected by the Commission. Except for the

1 penalties provided under Section 2-202, civil penalties may
2 be assessed only after notice and opportunity to be heard.
3 In determining the amount of the penalty, the Commission
4 shall consider the appropriateness of the penalty to the size
5 of the business of the public utility, corporation other than
6 a public utility, or person acting as a public utility
7 charged, the gravity of the violation, and the good faith of
8 the public utility, corporation other than a public utility,
9 or person acting as a public utility charged in attempting to
10 achieve compliance after notification of a violation. Nothing
11 in this Section, however, increases or decreases any minimum
12 or maximum penalty prescribed elsewhere in this Act.

13 (b) If timely judicial review of a Commission order that
14 imposes a civil penalty is taken by the public utility,
15 corporation other than a public utility, or person acting as
16 a public utility on which the civil penalty has been imposed,
17 the reviewing court shall enter a judgment on all amounts
18 upon affirmance of the Commission order. If timely judicial
19 review is not taken and the civil penalty remains unpaid for
20 60 days after service of the order, the Commission in its
21 discretion may either begin revocation proceedings or bring
22 suit to recover the penalties. Unless stayed by a reviewing
23 court, interest shall accrue from 60 days after the date of
24 service of the Commission order.

25 (c) Actions to recover delinquent civil penalties under
26 this Act shall be brought in the name of the People of the
27 State of Illinois in the circuit court in and for the county
28 in which the cause, or some part thereof, arose, or in which
29 the corporation complained of, if any, has its principal
30 place of business, or in which the person, if any, complained
31 of, resides. The action shall be commenced and prosecuted to
32 final judgment by the Commission. In any such action, all
33 interest incurred up to the time of final court judgment may
34 be sued for and recovered in that action. In all such

1 actions, the procedure and rules of evidence shall be the
 2 same as in ordinary civil actions, except as otherwise herein
 3 provided. All fines and penalties recovered by the State in
 4 any such action shall be paid into the State treasury to the
 5 credit of the General Revenue Fund. Any such action may be
 6 compromised or discontinued on application of the Commission
 7 upon such terms as the court shall approve and order.

8 (d) Civil penalties related to the late filing of
 9 reports, taxes, or other filings shall be paid into the State
 10 treasury to the credit of the Public Utility Fund. Except as
 11 otherwise provided in this Act, all other fines and civil
 12 penalties shall be paid into the State treasury to the credit
 13 of the General Revenue Fund. Except-as-otherwise-provided--in
 14 this--Act,--actions-to-recover-penalties-under-this-Act-shall
 15 be-brought-in-the-name-of-the-People-of-the-State-of-Illinois
 16 in-the-circuit-court-in-and--for--the--county--in--which--the
 17 cause,--or--some--part--thereof,--arose,--or--in--which--the
 18 corporation-complained-of,--if-any,--has-its-principal-place-of
 19 business,--or-in-which-the--person,--if--any,--complained--of,
 20 resides.--The--action--shall--be--commenced-and-prosecuted-to
 21 final-judgment-by-the-Commission.--In--any--such--action,--all
 22 penalties--incurred-up-to-the-time-of-commencing-the-same-may
 23 be-sued-for-and-recovered.--In-all-such-actions,--the-procedure
 24 and-rules-of-evidence-shall-be-the-same-as-in-ordinary--civil
 25 actions,--except--as-otherwise-herein-provided.--All-fines-and
 26 penalties-recovered-by-the-State-in-any-such-action-shall--be
 27 paid--into--the--State--treasury-to-the-credit-of-the-general
 28 fund.--Any-such-action-may-be-compromised-or--discontinued--on
 29 application--of--the--Commission-upon-such-terms-as-the-court
 30 shall-approve-and-order.

31 (Source: P.A. 84-617.)

32 (220 ILCS 5/5-107) (from Ch. 111 2/3, par. 5-107)

33 Sec. 5-107. Falsification or destruction of accounts and

1 records. Any person who shall willfully ~~wilfully~~ make any
 2 false entry in the accounts, or in any record or memoranda or
 3 by any other means or device falsify the record of any such
 4 account, record or memoranda, or who shall willfully
 5 withhold, neglect, or fail to make full, true, and correct
 6 entries in such accounts, records, or memoranda of all facts
 7 in transactions appertaining to the business of the public
 8 utility, or shall keep any accounts or record other than
 9 those prescribed or approved by the Commission, shall be
 10 guilty of a Class A misdemeanor.

11 If any such books, accounts, records or memoranda shall
 12 have been preserved for a period of at least three years, a
 13 public utility may with the consent of the Commission destroy
 14 such of them as in the judgment of the Commission may
 15 properly be destroyed.

16 (Source: P.A. 84-617.)

17 (220 ILCS 5/5-109) (from Ch. 111 2/3, par. 5-109)

18 Sec. 5-109. Reports; false reports; penalty. Each
 19 public utility in the State shall each year furnish to the
 20 Commission, in such form as the Commission shall require,
 21 annual reports as to all the items mentioned in the preceding
 22 Sections of this Article, and in addition such other items,
 23 whether of a nature similar to those therein enumerated or
 24 otherwise, as the Commission may prescribe. Such annual
 25 reports shall contain all the required information for the
 26 period to 12 ~~twelve~~ months ending on ~~the--thirtieth--day--of~~
 27 June 30 in each year, or ending on ~~the-thirty-first-day-of~~
 28 December 31 in each year, as the Commission may by order
 29 prescribe for each class of public utilities, and shall be
 30 filed with the Commission at its office in Springfield within
 31 three months after the close of the year for which the report
 32 is made. The Commission shall have authority to require any
 33 public utility to file monthly reports of earnings and

1 expenses of such utility, and to file other periodical or
2 special, or both periodical and special reports concerning
3 any matter about which the Commission is authorized by law to
4 keep itself informed. All reports shall be under oath.

5 When any report is erroneous or defective or appears to
6 the Commission to be erroneous or defective, the Commission
7 may notify the public utility to amend such report within 30
8 ~~thirty~~ days, and before or after the termination of such
9 period the Commission may examine the officers, agents, or
10 employees, and books, records, accounts, vouchers, plant,
11 equipment and property of such public utility, and correct
12 such items in the report as upon such examination the
13 Commission may find defective or erroneous.

14 All reports made to the Commission by any public utility
15 and the contents thereof shall be open to public inspection,
16 unless otherwise ordered by the Commission. Such reports
17 shall be preserved in the office of the Commission.

18 Any public utility which fails to make and file any
19 report called for by the Commission within the time
20 specified; or to make specific answer to any question
21 propounded by the Commission within 30 ~~thirty~~ days from the
22 time it is lawfully required to do so, or within such further
23 time, not to exceed 90 ~~ninety~~ days, as may in its discretion
24 be allowed by the Commission, shall forfeit up to \$100 for
25 each and every day it may so be in default if the utility
26 collects less than \$100,000 annually in gross revenue; and if
27 the utility collects \$100,000 or more annually in gross
28 revenue, it shall forfeit \$10,000 ~~\$100~~ per day for each and
29 every day it is in default.

30 Any person who willfully ~~wilfully~~ makes any false return
31 or report to the Commission, or to any member, officer, or
32 employee thereof, any person who willfully withholds or fails
33 to provide information to which the Commission is legally
34 entitled under this Act, and any person who aids or abets

1 such person shall be guilty of a Class A misdemeanor.

2 (Source: P.A. 84-617.)

3 (220 ILCS 5/5-202) (from Ch. 111 2/3, par. 5-202)

4 Sec. 5-202. Violations; penalty. Any public utility, or
5 any corporation other than a public utility, or any person
6 acting as a public utility, that which violates or fails to
7 comply with any provisions of this Act, or that which fails
8 to obey, observe, or comply with any order, decision, rule,
9 regulation, direction, or requirement, or any part or
10 provision thereof, of the Commission, made or issued under
11 authority of this Act, in a case in which a penalty is not
12 otherwise provided for in this Act, shall be subject to a
13 civil penalty imposed in the manner provided in Section
14 4-203. A small public utility, as defined in subsection (b)
15 of Section 4-502 of this Act, is subject to a civil penalty
16 of not less than \$500 nor more than \$2,000 for each and every
17 offense. All other public utilities, corporations other than
18 a public utility, and persons acting as a public utility are
19 subject to a civil penalty of up to \$30,000 for each and
20 every offense, except as otherwise provided in Sections
21 13-304, 13-305, and 5-202.1 of this Act.

22 Every violation of the provisions of this Act or of any
23 order, decision, rule, regulation, direction, or requirement
24 of the Commission, or any part or portion thereof, by any
25 corporation or person, is a separate and distinct offense,
26 and in case of a continuing violation, each day's continuance
27 thereof shall be a separate and distinct offense.

28 In construing and enforcing the provisions of this Act
29 relating to penalties, the act, omission, or failure of any
30 officer, agent, or employee of any public utility,
31 corporation other than a public utility, or person acting as
32 a public utility, that is acting within the scope of his
33 official duties or employment, shall in every case be deemed

1 to be the act, omission, or failure of such public utility,
2 corporation other than a public utility, or person acting as
3 a public utility.

4 If the party who has violated or failed to comply with
5 this Act or an order, decision, rule, regulation, direction,
6 or requirement of the Commission, or any part or provision
7 thereof, fails to seek review pursuant to Sections 10-113 and
8 10-201 of this Act within 30 days after of service of the
9 order, the party shall, upon expiration of the 30 days, be
10 subject to the civil penalty provision of this Section.

11 ~~No--penalties--shall--accerue--under--this--provision--until--15~~
12 ~~days--after--the--mailing--of--a--notice--to--such--party--or--parties~~
13 ~~that--they--are--in--violation--of--or--have--failed--to--comply--with~~
14 ~~the--Act--or--order,--decision,--rule,--regulation,--direction,--or~~
15 ~~requirement--of--the--Commission--or--any--part--or--provision~~
16 ~~thereof.~~

17 (Source: P.A. 87-164.)

18 (220 ILCS 5/5-202.1 new)

19 Sec. 5-202.1. Misrepresentation of testimony before
20 Commission; penalty.

21 (a) Any person or corporation, as defined in Sections
22 3-113 and 3-114 of this Act, who knowingly misrepresents
23 facts or circumstances, or aids another in doing so or
24 knowingly permits another to misrepresent facts or
25 circumstances, through testimony or the offering or
26 withholding of information in any formal or informal
27 proceeding shall be subject to a civil penalty. Whenever the
28 Commission is of the opinion that a person or corporation is
29 misrepresenting or has misrepresented facts or circumstances,
30 the Commission may initiate a proceeding to determine whether
31 a misrepresentation has in fact occurred. If the Commission
32 finds that a person or corporation has violated this Section,
33 the Commission shall impose a penalty of not less than \$5,000

1 and not greater than \$500,000. Each misrepresentation of a
2 fact or circumstance found by the Commission shall constitute
3 a separate violation. In determining the amount of the
4 penalty to be assessed, the Commission may consider any
5 matters of record in aggravation or mitigation of the
6 penalty, including but not limited to the following:

7 (1) the presence or absence of due diligence on the
8 part of the violator in attempting to comply with the
9 Act;

10 (2) any economic benefits accrued, or expected to
11 be accrued, by the violator because of the
12 misrepresentation; and

13 (3) the amount of monetary penalty that will serve
14 to deter further violations by the violator and to
15 otherwise aid in enhancing voluntary compliance with the
16 Act.

17 (b) If timely judicial review of a Commission order that
18 imposes a civil penalty under this Section is taken by the
19 person or corporation upon which the penalty has been
20 imposed, the reviewing court shall enter a judgment on all
21 amounts upon affirmance of the Commission order. If timely
22 judicial review is not taken and the civil penalty remains
23 unpaid for 60 days after service of the order, the Commission
24 in its discretion may either begin revocation proceedings or
25 bring suit to recover the penalty. Unless stayed by a
26 reviewing court, interest shall accrue from the 60th day
27 after the date of service of the Commission order to the date
28 full payment is received by the Commission.

29 (c) Actions to recover delinquent civil penalties under
30 this Section shall be brought in the name of the People of
31 the State of Illinois in the circuit court in and for the
32 county in which the cause, or some part thereof, arose, or in
33 which the entity complained of resides. The action shall be
34 commenced and prosecuted to final judgment by the Commission.

1 In any such actions, the procedure and rules of evidence
2 shall be the same as in ordinary civil actions, except as
3 otherwise herein provided.

4 (d) Civil penalties collected under this Section shall
5 be paid into the State treasury to the credit of the Public
6 Utility Fund.

7 (220 ILCS 5/10-105) (from Ch. 111 2/3, par. 10-105)

8 Sec. 10-105. No person shall be excused from testifying
9 or from producing any papers, books, accounts or documents in
10 any investigation or inquiry or upon any hearing ordered by
11 the Commission, when ordered to do so by the Commission or
12 any commissioner or hearing examiner, upon the ground that
13 the testimony or evidence, documentary or otherwise, may tend
14 to incriminate him or subject him to a penalty or forfeiture.
15 But no person shall be prosecuted or subjected to any penalty
16 or forfeiture for or on account of any transaction, matter or
17 thing concerning which he may testify or produce evidence,
18 documentary or otherwise, before the Commission or a
19 commissioner or hearing examiner: Provided, that such
20 immunity shall extend only to a natural person, who in
21 obedience to a subpoena, gives testimony under oath or
22 produces evidence, documentary or otherwise under oath. No
23 person so testifying shall be exempt from prosecution and
24 punishment for perjury committed in so testifying. A person
25 testifying shall be reasonably prepared to respond to
26 questions under cross-examination intending to elicit
27 information relevant and material to matters raised by that
28 person in his testimony. The Commission or a commissioner or
29 hearing examiner may, on the motion of a party or on its own
30 motion, strike in its entirety the testimony of a person who
31 is not reasonably prepared to respond to questions under
32 cross-examination intending to elicit information relevant
33 and material to matters raised by that person in his

1 testimony.

2 (Source: P.A. 84-617.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.