Introduced 1/5/2022, by Rep. Anne Stava-Murray

SYNOPSIS AS INTRODUCED:

220 ILCS 5/13-517
220 ILCS 5/21-201
220 ILCS 5/21-1101
220 ILCS 80/10

Amends the Public Utilities Act. Provides that every telecommunications carrier with more than 10,000 customers and every Incumbent Local Exchange Carrier (rather than every Incumbent Local Exchange Carrier) shall offer or provide advanced telecommunications services to not less than 90% of its customers by December 31, 2023 (rather than 80% of its customers by January 1, 2005). Removes provisions authorizing the Illinois Commerce Commission to grant a full or partial waiver of specified requirements. Provides that if the holder of a State-issued authorization is using telecommunications facilities to provide cable or video service and has more than 1,000,000 telecommunications access lines in this State, the holder shall provide access to its cable or video service to a number of households equal to at least 90% (rather than 35%) of the households in the holder's telecommunications service area in the State by December 31, 2023 (rather than within 3 years after the date a holder receives a State-issued authorization from the Commission). Provides that the holder of a State-issued authorization shall provide wireline broadband service capable of supporting, in at least one direction, a speed in excess of 1,000 megabits per second (rather than 200 kilobits per second), to the network demarcation point at the subscriber's premises, to a number of households equal to 90% of the households in the holder's telecommunications service area by December 31, 2023 (rather than December 31, 2008). Removes provisions concerning investigations into or complaint alleging that the holder of a State-issued authorization has failed to meet specified requirements. Makes changes to definitions. Amends the Broadband Advisory Council Act to make conforming changes.

LRB102 21398 SPS 30514 b
AN ACT concerning regulation.

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

Section 5. The Public Utilities Act is amended by changing Sections 13-517, 21-201, and 21-1101 as follows:

(220 ILCS 5/13-517)
(Section scheduled to be repealed on December 31, 2026)
Sec. 13-517. Provision of advanced telecommunications services.

(a) Every telecommunications carrier with more than 10,000 customers and every Incumbent Local Exchange Carrier (telecommunications carrier that offers or provides a noncompetitive telecommunications service) shall offer or provide advanced telecommunications services to not less than 90% of its customers by December 31, 2023. January 1, 2005.

(b) (Blank). The Commission is authorized to grant a full or partial waiver of the requirements of this Section upon verified petition of any Incumbent Local Exchange Carrier ("ILEC") which demonstrates that full compliance with the requirements of this Section would be unduly economically burdensome or technically infeasible or otherwise impractical in exchanges with low population density. Notice of any such petition must be given to all potentially affected customers.
If no potentially affected customer requests the opportunity for a hearing on the waiver petition, the Commission may, in its discretion, allow the waiver request to take effect without hearing. The Commission shall grant such petition to the extent that, and for such duration as, the Commission determines that such waiver:

(1) is necessary:
   (A) to avoid a significant adverse economic impact on users of telecommunications services generally;
   (B) to avoid imposing a requirement that is unduly economically burdensome;
   (C) to avoid imposing a requirement that is technically infeasible; or
   (D) to avoid imposing a requirement that is otherwise impractical to implement in exchanges with low population density; and

(2) is consistent with the public interest, convenience, and necessity.

The Commission shall act upon any petition filed under this subsection within 180 days after receiving such petition. The Commission may by rule establish standards for granting any waiver of the requirements of this Section. The Commission may, upon complaint or on its own motion, hold a hearing to reconsider its grant of a waiver in whole or in part. In the event that the Commission, following hearing, determines that the affected ILEC no longer meets the requirements of item (2)
of this subsection, the Commission shall by order rescind such waiver, in whole or in part. In the event and to the degree the Commission rescinds such waiver, the Commission shall establish an implementation schedule for compliance with the requirements of this Section.

(c) As used in this Section, "advanced telecommunications services" means services capable of supporting, in at least one direction, a speed in excess of 1,000 megabits per second (mbps) (kbps) to the network demarcation point at the subscriber's premises.

(Source: P.A. 100-20, eff. 7-1-17.)

(220 ILCS 5/21-201)

(Section scheduled to be repealed on December 31, 2026)

Sec. 21-201. Definitions. As used in this Article:

(a) "Access" means that the cable or video provider is capable of providing cable services or video services at the household address using any technology, other than direct-to-home satellite service, that provides 2-way broadband Internet capability and video programming, content, and functionality, regardless of whether any customer has ordered service or whether the owner or landlord or other responsible person has granted access to the household. If more than one technology is used, the technologies shall provide similar 2-way broadband Internet accessibility and similar video programming.
(b) "Basic cable or video service" means any cable or video service offering or tier that includes the retransmission of local television broadcast signals.

(c) "Broadband service" means a high speed service connection to the public Internet capable of supporting, in at least one direction, a speed in excess of 1,000 megabits per second (mbps) (kbps) to the network demarcation point at the subscriber's premises.

(d) "Cable operator" means that term as defined in item (5) of 47 U.S.C. 522.

(e) "Cable service" means that term as defined in item (6) of 47 U.S.C. 522.

(f) "Cable system" means that term as defined in item (7) of 47 U.S.C. 522.

(g) "Commission" means the Illinois Commerce Commission.

(h) "Competitive cable service or video service provider" means a person or entity that is providing or seeks to provide cable service or video service in an area where there is at least one incumbent cable operator.

(i) "Designated market area" means a designated market area, as determined by Nielsen Media Research and published in the 1999-2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication. For any designated market area that crosses State lines, only households in the portion of the designated market area that is located within the holder's
telecommunications service area in the State where access to video service will be offered shall be considered.

(j) "Footprint" means the geographic area designated by the cable service or video service provider as the geographic area in which it will offer cable services or video services during the period of its State-issued authorization. Each footprint shall be identified in terms of either (i) exchanges, as that term is defined in Section 13-206 of this Act; (ii) a collection of United States Census Bureau Block numbers (13 digit); (iii) if the area is smaller than the areas identified in either (i) or (ii), by geographic information system digital boundaries meeting or exceeding national map accuracy standards; or (iv) local units of government.

(k) "Holder" means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to Section 21-401 of this Article.

(l) "Household" means a house, an apartment, a mobile home, a group of rooms, or a single room that is intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live and eat separately from any other persons in the building and that have direct access from the outside of the building or through a common hall. This definition is consistent with the United States Census Bureau, as that definition may be amended thereafter.

(m) "Incumbent cable operator" means a person or entity
that provided cable services or video services in a particular area under a franchise agreement with a local unit of government pursuant to Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11) or Section 5-1095 of the Counties Code (55 ILCS 5/5-1095) on January 1, 2007.

(n) "Local franchising authority" means the local unit of government that has or requires a franchise with a cable operator, a provider of cable services, or a provider of video services to construct or operate a cable or video system or to offer cable services or video services under Section 11-42-11 of the Illinois Municipal Code (65 ILCS 5/11-42-11) or Section 5-1095 of the Counties Code (55 ILCS 5/5-1095).

(o) "Local unit of government" means a city, village, incorporated town, or county.

(p) "Low-income household" means those residential households located within the holder's existing telephone service area where the average annual household income is less than $35,000, based on the United States Census Bureau estimates adjusted annually to reflect rates of change and distribution.

(q) "Public rights-of-way" means the areas on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easements dedicated for compatible uses.

(r) "Service" means the provision of cable service or video service to subscribers and the interaction of
subscribers with the person or entity that has received
authorization to offer or provide cable or video service from
the Commission pursuant to Section 21-401 of this Act.

(s) "Service provider fee" means the amount paid under
Section 21-801 of this Act by the holder to a municipality, or
in the case of an unincorporated service area to a county, for
service areas within its territorial jurisdiction, but under
no circumstances shall the service provider fee be paid to
more than one local unit of government for the same portion of
the holder's service area.

(t) "Telecommunications service area" means the area
designated by the Commission as the area in which a
telecommunications company was obligated to provide
non-competitive local telephone service as of February 8, 1996
as incorporated into Section 13-202.5 of this Act.

(u) "Video programming" means that term as defined in item
(20) of 47 U.S.C. 522.

(v) "Video service" means video programming and subscriber
interaction, if any, that is required for the selection or use
of such video programming services, and that is provided
through wireline facilities located at least in part in the
public rights-of-way without regard to delivery technology,  
including Internet protocol technology. This definition does
not include any video programming provided by a commercial
mobile service provider defined in subsection (d) of 47 U.S.C.
332 or any video programming provided solely as part of, and
via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

(Source: P.A. 100-20, eff. 7-1-17.)

(220 ILCS 5/21-1101)

(Section scheduled to be repealed on December 31, 2026)

Sec. 21-1101. Requirements to provide video services.

(a) The holder of a State-issued authorization shall not deny access to cable service or video service to any potential residential subscribers because of the race or income of the residents in the local area in which the potential subscribers reside.

(b) (Blank).

(c)(1) If the holder of a State-issued authorization is using telecommunications facilities to provide cable or video service and has more than 1,000,000 telecommunications access lines in this State, the holder shall provide access to its cable or video service to a number of households equal to at least 35% of the households in the holder's telecommunications service area in the State by December 31, 2023 within 3 years after the date a holder receives a State-issued authorization from the Commission and to a number not less than 50% of these households within 5 years after the date a holder receives a State-issued authorization from the Commission, provided that the holder of a State-issued
authorization is not required to meet the 50% requirement in this paragraph (1) until 2 years after at least 15% of the households with access to the holder's video service subscribe to the service for 6 consecutive months.

The holder's obligation to provide such access in the State shall be distributed, as the holder determines, within 3 designated market areas, one in each of the northeastern, central, and southwestern portions of the holder's telecommunications service area in the State. The designated market area for the northeastern portion shall consist of 2 separate and distinct reporting areas: (i) a city with more than 1,000,000 inhabitants, and (ii) all other local units of government on a combined basis within such designated market area in which it offers video service.

If any state, in which a holder subject to this subsection (c) or one of its affiliates provides or seeks to provide cable or video service, adopts a law permitting state-issued authorization or statewide franchises to provide cable or video service that requires a cable or video provider to offer service to more than 35% of the households in the cable or video provider's service area in that state within 3 years, holders subject to this subsection (c) shall provide service in this State to the same percentage of households within 3 years of adoption of such law in that state.

Furthermore, if any state, in which a holder subject to this subsection (c) or one of its affiliates provides or seeks
to provide cable or video service, adopts a law requiring a
holder of a state-issued authorization or statewide franchises
to offer cable or video service to more than 35% of its
households if less than 15% of the households with access to
the holder's video service subscribe to the service for 6
consecutive months, then as a precondition to further
build-out, holders subject to this subsection (c) shall be
subject to the same percentage of service subscription in
meeting its obligation to provide service to 50% of the
households in this State.

(2) Within 3 years after the date a holder receives a
State-issued authorization from the Commission, at least 30%
of the total households with access to the holder's cable or
video service shall be low-income.

Within each designated market area listed in paragraph (1)
of this subsection (c), the holder's obligation to offer
service to low-income households shall be measured by each
exchange, as that term is defined in Section 13-206 of this Act
in which the holder chooses to provide cable or video service.
The holder is under no obligation to serve or provide access to
an entire exchange; however, in addition to the statewide
obligation to provide low-income access provided by this
Section, in each exchange in which the holder chooses to
provide cable or video service, the holder shall provide
access to a percentage of low-income households that is at
least equal to the percentage of the total low-income
households within that exchange.

(d)(1) All other holders shall only provide access to one or more exchanges, as that term is defined in Section 13-206 of this Act, or to local units of government and shall provide access to their cable or video service to a number of households equal to 35% of the households in the exchange or local unit of government within 3 years after the date a holder receives a State-issued authorization from the Commission and to a number not less than 50% of these households within 5 years after the date a holder receives a State-issued authorization from the Commission, provided that if the holder is an incumbent cable operator or any successor-in-interest company, it shall be obligated to provide access to cable or video services within the jurisdiction of a local unit of government at the same levels required by the local franchising authorities for that local unit of government on June 30, 2007 (the effective date of Public Act 95-9).

(2) Within 3 years after the date a holder receives a State-issued authorization from the Commission, at least 30% of the total households with access to the holder's cable or video service shall be low-income.

Within each designated exchange, as that term is defined in Section 13-206 of this Act, or local unit of government listed in paragraph (1) of this subsection (d), the holder's obligation to offer service to low-income households shall be measured by each exchange or local unit of government in which
the holder chooses to provide cable or video service. Except as provided in paragraph (1) of this subsection (d), the holder is under no obligation to serve or provide access to an entire exchange or local unit of government; however, in addition to the statewide obligation to provide low-income access provided by this Section, in each exchange or local unit of government in which the holder chooses to provide cable or video service, the holder shall provide access to a percentage of low-income households that is at least equal to the percentage of the total low-income households within that exchange or local unit of government.

(e) A holder subject to subsection (c) of this Section shall provide wireline broadband service, defined as wireline service, capable of supporting, in at least one direction, a speed in excess of 1,000 megabits (mbps) (kbps), to the network demarcation point at the subscriber's premises, to a number of households equal to 90% of the households in the holder's telecommunications service area by December 31, 2023, or shall pay within 30 days of December 31, 2008 a sum of $15,000,000 to the Digital Divide Elimination Infrastructure Fund established pursuant to Section 13-301.3 of this Act, or any successor fund established by the General Assembly. In that event the holder is required to make a payment pursuant to this subsection (e), the holder shall have no further accounting for this payment, which shall be used in any part of the State for the purposes
established in the Digital Divide Elimination Infrastructure Fund or for broadband deployment.

(f) The holder of a State-issued authorization may satisfy the requirements of subsections (c) and (d) of this Section through the use of any technology, which shall not include direct-to-home satellite service, that offers service, functionality, and content that is demonstrably similar to that provided through the holder's video service system.

(g) (Blank). In any investigation into or complaint alleging that the holder of a State-issued authorization has failed to meet the requirements of this Section, the following factors may be considered in justification or mitigation or as justification for an extension of time to meet the requirements of subsections (c) and (d) of this Section:

(1) The inability to obtain access to public and private rights-of-way under reasonable terms and conditions.

(2) Barriers to competition arising from existing exclusive service arrangements in developments or buildings.

(3) The inability to access developments or buildings using reasonable technical solutions under commercially reasonable terms and conditions.

(4) Natural disasters.

(5) Other factors beyond the control of the holder.

(h) (Blank). If the holder relies on the factors
identified in subsection (g) of this Section in response to an investigation or complaint, the holder shall demonstrate the following:

(1) what substantial effort the holder of a State-issued authorization has taken to meet the requirements of subsection (a) or (c) of this Section;

(2) which portions of subsection (g) of this Section apply; and

(3) the number of days it has been delayed or the requirements it cannot perform as a consequence of subsection (g) of this Section.

(i) (Blank). The factors in subsection (g) of this Section may be considered by the Attorney General or by a court of competent jurisdiction in determining whether the holder is in violation of this Article.

(j) Every holder of a State-issued authorization, no later than April 1, 2009, and annually no later than April 1 thereafter, shall report to the Commission for each of the service areas as described in subsections (c) and (d) of this Section in which it provides access to its video service in the State, the following information:

(1) Cable service and video service information:

(A) The number of households in the holder's telecommunications service area within each designated market area as described in subsection (c) of this Section or exchange or local unit of government as
described in subsection (d) of this Section in which
it offers video service.

(B) The number of households in the holder's
telecommunications service area within each designated
market area as described in subsection (c) of this
Section or exchange or local unit of government as
described in subsection (d) of this Section that are
offered access to video service by the holder.

(C) The number of households in the holder's
telecommunications service area in the State.

(D) The number of households in the holder's
telecommunications service area in the State that are
offered access to video service by the holder.

(2) Low-income household information:

(A) The number of low-income households in the
holder's telecommunications service area within each
designated market area as described in subsection (c)
of this Section, as further identified in terms of
exchanges, or exchange or local unit of government as
described in subsection (d) of this Section in which
it offers video service.

(B) The number of low-income households in the
holder's telecommunications service area within each
designated market area as described in subsection (c)
of this Section, as further identified in terms of
exchanges, or exchange or local unit of government as
described in subsection (d) of this Section in the State that are offered access to video service by the holder.

(C) The number of low-income households in the holder's telecommunications service area in the State.

(D) The number of low-income households in the holder's telecommunications service area in the State that are offered access to video service by the holder.

(j-5) The requirements of subsection (c) of this Section shall be satisfied upon the filing of an annual report with the Commission in compliance with subsection (j) of this Section, including an annual report filed prior to this amendatory Act of the 98th General Assembly, that demonstrates the holder of the authorization has satisfied the requirements of subsection (c) of this Section for each of the service areas in which it provides access to its cable service or video service in the State. Notwithstanding the continued application of this Article to the holder, upon satisfaction of the requirements of subsection (c) of this Section, only the requirements of subsection (a) of this Section 21-1101 of this Act and the following reporting requirements shall continue to apply to such holder:

(1) Cable service and video service information:

(A) The number of households in the holder's telecommunications service area within each designated
market area in which it offers cable service or video service.

(B) The number of households in the holder's telecommunications service area within each designated market area that are offered access to cable service or video service by the holder.

(C) The number of households in the holder's telecommunications service area in the State.

(D) The number of households in the holder's telecommunications service area in the State that are offered access to cable service or video service by the holder.

(E) The exchanges or local units of government in which the holder added cable service or video service in the prior year.

(2) Low-income household information:

(A) The number of low-income households in the holder's telecommunications service area within each designated market area in which it offers video service.

(B) The number of low-income households in the holder's telecommunications service area within each designated market area that are offered access to video service by the holder.

(C) The number of low-income households in the holder's telecommunications service area in the State.
(D) The number of low-income households in the holder's telecommunications service area in the State that are offered access to video service by the holder.

(j-10) The requirements of subsection (d) of this Section shall be satisfied upon the filing of an annual report with the Commission in compliance with subsection (j) of this Section, including an annual report filed prior to this amendatory Act of the 98th General Assembly, that demonstrates the holder of the authorization has satisfied the requirements of subsection (d) of this Section for each of the service areas in which it provides access to its cable service or video service in the State. Notwithstanding the continued application of this Article to the holder, upon satisfaction of the requirements of subsection (d) of this Section, only the requirements of subsection (a) of this Section and the following reporting requirements shall continue to apply to such holder:

(1) Cable service and video service information:

(A) The number of households in the holder's footprint in which it offers cable service or video service.

(B) The number of households in the holder's footprint that are offered access to cable service or video service by the holder.

(C) The exchanges or local units of government in which the holder added cable service or video service
in the prior year.

(2) Low-income household information:

   (A) The number of low-income households in the holder's footprint in which it offers cable service or video service.

   (B) The number of low-income households in the holder's footprint that are offered access to cable service or video service by the holder.

(k) The Commission, within 30 days of receiving the first report from holders under this Section, and annually no later than July 1 thereafter, shall submit to the General Assembly a report that includes, based on year-end data, the information submitted by holders pursuant to subdivisions (1) and (2) of subsections (j), (j-5), and (j-10) of this Section. The Commission shall make this report available to any member of the public or any local unit of government upon request. All information submitted to the Commission and designated by holders as confidential and proprietary shall be subject to the disclosure provisions in subsection (c) of Section 21-401 of this Act. No individually identifiable customer information shall be subject to public disclosure.

(Source: P.A. 100-20, eff. 7-1-17.)

Section 10. The Broadband Advisory Council Act is amended by changing Section 10 as follows:
Sec. 10. Definitions. As used in this Act:

"Broadband" or "broadband service" means lines (or wireless channels) that terminate at an end-user location and enable the end-user to receive information from the Internet at least 1,000 megabits per second (mbps) or send information to the Internet.

"Council" means the Broadband Advisory Council.

"Downstream data rate" means the transmission speed from the service provider source to the end-user.

"Internet protocol address" or "IP address" means a unique string of numbers separated by periods that identifies each computer using the Internet protocol to communicate over a network.

"Low-income household" means a residential household with annual household income at or below 135% of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).

"Upstream data rate" means the transmission speed from the end-user to the service provider source.

"Unserved area" means a community that has no access to broadband service.

(Source: P.A. 100-833, eff. 1-1-19.)