



Sen. James F. Clayborne Jr.

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1 AMENDMENT TO SENATE BILL 1700

2 AMENDMENT NO. _____. Amend Senate Bill 1700 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Sections 13-100, 13-101, 13-102, 13-103, 13-202.5, 13-203,
6 13-204, 13-205, 13-209, 13-214, 13-216, 13-301, 13-305,
7 13-401, 13-403, 13-406, 13-407, 13-501, 13-502, 13-504,
8 13-505, 13-506, 13-506.1, 13-509, 13-514, 13-515, 13-517,
9 13-701, 13-712, 13-801, and 13-1200 and by adding Sections
10 13-100.5, 13-203.1, 13-203.2, 13-203.3, 13-203.4, 13-203.5,
11 13-203.6, 13-204.5, 13-400, 13-518.1, and 13-804 as follows:

12 (220 ILCS 5/13-100) (from Ch. 111 2/3, par. 13-100)

13 (Section scheduled to be repealed on July 1, 2005)

14 Sec. 13-100. This Article shall be known and may be cited
15 as the Telecommunications Reform Act of 2005 ~~Universal~~
16 ~~Telephone Service Protection Law of 1985~~.

17 (Source: P.A. 84-1063.)

18 (220 ILCS 5/13-100.5 new)

19 Sec. 13-100.5. References to former law. References in
20 this Act or any other law, rule, regulation, or other document
21 to the Universal Telephone Service Protection Law of 1985 are
22 references to the Telecommunications Reform Act of 2005. The
23 Sections of this Act pertaining to public utilities, public

1 utility rates and services, and the regulation thereof, shall
2 not apply to public mobile services.

3 (220 ILCS 5/13-101) (from Ch. 111 2/3, par. 13-101)

4 (Section scheduled to be repealed on July 1, 2005)

5 Sec. 13-101. Application of Act to telecommunications
6 rates and services. Except to the extent modified or
7 supplemented by the specific provisions of this Article, the
8 Sections of this Act pertaining to public utilities, public
9 utility rates and services, and the regulation thereof, are
10 fully and equally applicable to noncompetitive
11 telecommunications rates and services, and the regulation
12 thereof, except where the context clearly renders such
13 provisions inapplicable. Except to the extent modified or
14 supplemented by the specific provisions of this Article,
15 Articles I through V, Sections ~~8-301~~, 8-505, 9-221, 9-222,
16 9-222.1, 9-222.2, ~~9-250~~, and 9-252.1, and Article ~~Articles~~ X
17 ~~and XI~~ of this Act are fully and equally applicable to
18 competitive telecommunications ~~rates and~~ services, and the
19 regulation thereof; ~~in addition, as to competitive~~
20 ~~telecommunications rates and services, and the regulation~~
21 ~~thereof, all rules and regulations made by a telecommunications~~
22 ~~carrier affecting or pertaining to its charges or service to~~
23 ~~the public shall be just and reasonable~~, provided that nothing
24 in this Section shall be construed to prevent a
25 telecommunications carrier from accepting payment
26 electronically or by the use of a customer-preferred
27 financially accredited credit or debit methodology. Sections
28 8-305, 8-401, 8-502, and 8-507 of this Act apply to the
29 price-capped telecommunications services of an incumbent local
30 exchange carrier. As of the effective date of this amendatory
31 Act of the 92nd General Assembly, Sections 4-202, 4-203, and
32 5-202 of this Act shall cease to apply to telecommunications
33 rates and services.

1 (Source: P.A. 92-22, eff. 6-30-01.)

2 (220 ILCS 5/13-102) (from Ch. 111 2/3, par. 13-102)

3 (Section scheduled to be repealed on July 1, 2005)

4 Sec. 13-102. Findings. With respect to telecommunications
5 services, as herein defined, and the communications
6 environment that now exists in the State of Illinois, the
7 General Assembly finds that:

8 (a) universally available and widely affordable
9 telecommunications services are essential to the health,
10 welfare and prosperity of all Illinois citizens;

11 (b) federal regulatory and judicial rulings in the 1980s
12 caused a restructuring of the telecommunications industry and
13 opened some aspects of the industry to competitive entry,
14 thereby necessitating revision of State telecommunications
15 regulatory policies and practices;

16 (c) revisions in telecommunications regulatory policies
17 and practices in Illinois beginning in the mid-1980s brought
18 the benefits of competition to consumers in many
19 telecommunications markets, but not in local exchange
20 telecommunications service markets;

21 (d) the federal Telecommunications Act of 1996 established
22 the goal of opening all telecommunications service markets to
23 competition and accords to the states certain responsibilities
24 ~~the responsibility~~ to establish and enforce policies necessary
25 to attain that goal;

26 (e) it is in the ~~immediate~~ interest of the People of the
27 State of Illinois for the State to exercise its rights within
28 the new framework of federal telecommunications policy to
29 ensure that the economic benefits of competition in all
30 telecommunications service markets are realized as effectively
31 as possible;

32 (e-5) since the passage of the federal Telecommunications
33 Act of 1996, national telecommunications policy has reaffirmed

1 the increased benefits of a pro-competitive de-regulatory
2 framework that provides incentives for both incumbent carriers
3 and new entrants to accelerate rapidly private sector
4 investment in advanced telecommunications and information
5 technologies in a manner that best allows for innovation and
6 sustainable facilities-based competition;

7 (e-10) significant changes in the communications industry,
8 both among incumbent telecommunications providers and by the
9 entry of new entrants, have brought the benefits of competition
10 to consumers and businesses in Illinois;

11 (e-15) advancements in and the convergence of technologies
12 that provide voice, video, and data transmission, including
13 landline, wireless, cable, satellite, and Internet
14 transmissions involving Internet Protocol enabled services
15 (including voice, video, and data), are substantially
16 increasing consumer choice, reinventing the communications
17 industry and marketplace with unprecedented speed, and making
18 available highly competitive products and services and new
19 methods of delivering all forms of communications services;

20 (e-20) there is now significant communications competition
21 in Illinois and a continuing convergence of multiple
22 technologies, including facilities-based telecommunications
23 services, cable telephony services, wireless services,
24 advanced information services, high speed broadband transport
25 services, and Internet Protocol enabled voice, video and data
26 services;

27 (f) the continued competitive offering of all
28 telecommunications services will increase innovation and
29 efficiency in the provision of telecommunications services and
30 ~~may~~ lead to reduced prices for consumers, a wider choice of
31 services, increased investment in communications
32 infrastructure, the creation of new jobs, and the attraction of
33 new businesses to Illinois; and

34 (g) protection of the public interest requires changes in

1 the regulation of telecommunications carriers and services
2 consistent with the competitive environment and convergence of
3 technologies ~~to ensure, to the maximum feasible extent, the~~
4 ~~reasonable and timely development of effective competition in~~
5 ~~all telecommunications service markets.~~

6 (Source: P.A. 90-185, eff. 7-23-97.)

7 (220 ILCS 5/13-103) (from Ch. 111 2/3, par. 13-103)

8 (Section scheduled to be repealed on July 1, 2005)

9 Sec. 13-103. Policy. Consistent with its findings, the
10 General Assembly declares that it is the policy of the State of
11 Illinois that:

12 (a) telecommunications services should be available to all
13 Illinois citizens at just, reasonable, and affordable rates,
14 provisioned over a well-maintained and reliable
15 telecommunications infrastructure system, and that such
16 services should be provided as widely and economically as
17 possible in sufficient variety, quality, quantity and
18 reliability to satisfy the public interest;

19 (b) consistent with the protection of consumers of
20 telecommunications services and the furtherance of other
21 public interest goals, competition in all telecommunications
22 service markets exists and should be ~~pursued as~~ a substitute
23 for regulation in determining the variety, quality and price of
24 telecommunications services and that the economic burdens of
25 regulation should be reduced to the extent possible consistent
26 with the furtherance of market competition and protection of
27 the public interest;

28 (b-5) given the global nature of the telecommunications
29 marketplace, it is critical that the State of Illinois
30 establish and exercise its telecommunications policy within
31 the framework of federal telecommunications policy to ensure
32 that the economic benefits of competition in all communications
33 markets are maintained and enhanced;

1 (c) all necessary and appropriate modifications to State
2 regulation of telecommunications carriers and services should
3 be implemented without unnecessary disruption to the
4 telecommunications infrastructure system or to consumers of
5 telecommunications services and that it is necessary and
6 appropriate to establish rules to encourage and ensure orderly
7 transitions in the development of markets for all
8 telecommunications services;

9 (d) the consumers of telecommunications services and
10 facilities provided by persons or companies subject to
11 regulation pursuant to this Act and Article should be required
12 to pay only reasonable and non-discriminatory rates or charges
13 and that in no case should rates or charges for non-competitive
14 telecommunications services include any portion of the cost of
15 providing competitive telecommunications services, as defined
16 in Section 13-209, or the cost of any nonregulated activities;

17 (d-5) consumers of telecommunications services will
18 benefit from marketplace pricing flexibility, which is
19 designed to provide consumers with more services, more choice
20 and new innovations at lower overall prices and increased
21 value;

22 (e) the regulatory policies and procedures provided in this
23 Article are established in recognition of the changing nature
24 of the communications ~~telecommunications~~ industry and
25 therefore telecommunications should be subject to systematic
26 legislative review to ensure that the public benefits intended
27 to result from such policies and procedures are fully realized;
28 and

29 (f) development of and prudent investment in advanced
30 telecommunications services and networks that foster economic
31 development of the State should be encouraged through the
32 implementation and enforcement of policies that promote
33 effective and sustained competition in all telecommunications
34 service markets.

1 (Source: P.A. 90-185, eff. 7-23-97.)

2 (220 ILCS 5/13-202.5)

3 (Section scheduled to be repealed on July 1, 2005)

4 Sec. 13-202.5. Incumbent local exchange carrier.
5 "Incumbent local exchange carrier" means, with respect to an
6 area, the telecommunications carrier that provided
7 noncompetitive local exchange telecommunications service in
8 that area on February 8, 1996, and on that date was deemed a
9 member of the exchange carrier association pursuant to 47
10 C.F.R. 69.601(b), and includes its successors or, ~~assigns, and~~
11 ~~affiliates.~~

12 (Source: P.A. 92-22, eff. 6-30-01.)

13 (220 ILCS 5/13-203) (from Ch. 111 2/3, par. 13-203)

14 (Section scheduled to be repealed on July 1, 2005)

15 Sec. 13-203. Telecommunications service.

16 "Telecommunications service" means the offering of
17 telecommunications for a fee directly to the public, or to such
18 classes of users as to be effectively available directly to the
19 public, regardless of the facilities used. ~~the provision or~~
20 ~~offering for rent, sale or lease, or in exchange for other~~
21 ~~value received, of the transmittal of information, by means of~~
22 ~~electromagnetic, including light, transmission with or without~~
23 ~~benefit of any closed transmission medium, including all~~
24 ~~instrumentalities, facilities, apparatus, and services~~
25 ~~(including the collection, storage, forwarding, switching, and~~
26 ~~delivery of such information) used to provide such transmission~~
27 ~~and also includes access and interconnection arrangements and~~
28 ~~services.~~

29 "Telecommunications service" does not include, however:

30 (a) the rent, sale, or lease, or exchange for other value
31 received, of customer premises equipment except for customer
32 premises equipment owned or provided by a telecommunications

1 carrier and used for answering 911 calls, and except for
2 customer premises equipment provided under Section 13-703;

3 (b) telephone or telecommunications answering services, paging
4 services, and physical pickup and delivery incidental to the
5 provision of information transmitted through electromagnetic,
6 including light, transmission; (c) community antenna
7 television service which is operated to perform for hire the
8 service of receiving and distributing video and audio program
9 signals by wire, cable or other means to members of the public
10 who subscribe to such service, to the extent that such service
11 is utilized solely for the one-way distribution of such
12 entertainment services with no more than incidental subscriber
13 interaction required for the selection of such entertainment
14 service.

15 The Commission may, by rulemaking, exclude (1) private line
16 service which is not directly or indirectly used for the
17 origination or termination of switched telecommunications
18 service, (2) cellular radio service, (3) high-speed
19 point-to-point data transmission at or above 9.6 kilobits, or
20 (4) the provision of telecommunications service by a company or
21 person otherwise subject to Section 13-202 (c) to a
22 telecommunications carrier, which is incidental to the
23 provision of service subject to Section 13-202 (c), from active
24 regulatory oversight to the extent it finds, after notice,
25 hearing and comment that such exclusion is consistent with the
26 public interest and the purposes and policies of this Article.
27 To the extent that the Commission has excluded cellular radio
28 service from active regulatory oversight for any provider of
29 cellular radio service in this State pursuant to this Section,
30 the Commission shall exclude all other providers of cellular
31 radio service in the State from active regulatory oversight
32 without an additional rulemaking proceeding where there are 2
33 or more certified providers of cellular radio service in a
34 geographic area.

1 (Source: P.A. 90-185, eff. 7-23-97.)

2 (220 ILCS 5/13-203.1 new)

3 Sec. 13-203.1. "Telecommunications" means the
4 transmission, between or among points specified by the user, of
5 information of the user's choosing, without change in the form
6 or content of the information as sent and received.

7 (220 ILCS 5/13-203.2 new)

8 Sec. 13-203.2. "Advanced service" means high speed,
9 switched, broadband, wireline telecommunications capability
10 that enables end users to originate and receive high-quality
11 voice, data, graphics or video telecommunications using any
12 technology.

13 (220 ILCS 5/13-203.3 new)

14 Sec. 13-203.3. "Broadband service" means lines (or
15 wireless channels) that terminate at an end user location,
16 connect the end user to the Internet, and carry information at
17 the end user location at information transfer rates exceeding
18 200 kilobits per second ("kbps") in at least one direction.

19 (220 ILCS 5/13-203.4 new)

20 Sec. 13-203.4. "Information service" means the offering of
21 a capability for generating, acquiring, storing, transforming,
22 processing, retrieving, utilizing, or making available
23 information via telecommunications, and includes electronic
24 publishing, but does not include any use of any such capability
25 for the management, control, or operation of a
26 telecommunications system or the management of a
27 telecommunications service.

28 (220 ILCS 5/13-203.5 new)

29 Sec. 13-203.5. "Internet protocol ("IP") enabled service"

1 means services and applications relying on the Internet
2 Protocol family, including the digital communications
3 capabilities of increasingly higher speeds, which use a number
4 of transmission network technologies, and which generally have
5 in common the use of the Internet protocol.

6 (220 ILCS 5/13-203.6 new)

7 Sec. 13-203.6. "Customer premises equipment" means
8 equipment employed on the premises of a person (other than a
9 carrier) to originate, route, or terminate telecommunications.

10 (220 ILCS 5/13-204) (from Ch. 111 2/3, par. 13-204)

11 (Section scheduled to be repealed on July 1, 2005)

12 Sec. 13-204. "Local Exchange Telecommunications Service"
13 means telecommunications service between points within an
14 exchange, as defined in Section 13-206, or the provision of
15 telecommunications service for the origination or termination
16 of switched telecommunications services, but does not include
17 public mobile services.

18 (Source: P.A. 84-1063.)

19 (220 ILCS 5/13-204.5 new)

20 Sec. 13-204.5. "Intrastate switched access service" means
21 access to the switched network of a telecommunications carrier
22 for the purpose of originating or terminating communications
23 between points within the State of Illinois.

24 (220 ILCS 5/13-205) (from Ch. 111 2/3, par. 13-205)

25 (Section scheduled to be repealed on July 1, 2005)

26 Sec. 13-205. "Interexchange Telecommunications Service"
27 means telecommunications service between points in two or more
28 exchanges, but does not include public mobile services.

29 (Source: P.A. 84-1063.)

1 (220 ILCS 5/13-209) (from Ch. 111 2/3, par. 13-209)

2 (Section scheduled to be repealed on July 1, 2005)

3 Sec. 13-209. "Competitive Telecommunications Service"
4 means (i) a telecommunications service, its functional
5 equivalent or a substitute service, which, for some
6 identifiable class or group of customers in an exchange, group
7 of exchanges, or some other clearly defined geographical area,
8 is reasonably available from more than one provider, whether or
9 not such provider is a telecommunications carrier subject to
10 regulation under this Act or (ii) any other telecommunications
11 service classified as competitive under this Article. A
12 telecommunications service may be competitive for the entire
13 state, some geographical area therein, including an exchange or
14 set of exchanges, or for a specific customer or class or group
15 of customers, but only to the extent consistent with this
16 definition.

17 (Source: P.A. 84-1063.)

18 (220 ILCS 5/13-214) (from Ch. 111 2/3, par. 13-214)

19 (Section scheduled to be repealed on July 1, 2005)

20 Sec. 13-214. (a) "Public mobile services" means
21 air-to-ground radio telephone services, cellular radio
22 telecommunications services, offshore radio, rural radio
23 service, public land mobile telephone service, and commercial
24 mobile services, as defined in 47 U.S.C. Section 332(d)(1) and
25 ~~other common carrier radio communications services.~~

26 ~~(b) "Private radio services" means private land mobile~~
27 ~~radio services and other communications services characterized~~
28 ~~by the Commission as private radio services.~~

29 (Source: P.A. 85-1405.)

30 (220 ILCS 5/13-216)

31 (Section scheduled to be repealed on July 1, 2005)

32 Sec. 13-216. Network element. "Network element" means a

1 facility or equipment used in the provision of a
2 telecommunications service. The term also includes features,
3 functions, and capabilities that are provided by means of the
4 facility or equipment, including, ~~but not limited to,~~
5 subscriber numbers, databases, signaling systems, and
6 information sufficient for billing and collection or used in
7 the transmission, routing, or other provision of a
8 telecommunications service.

9 (Source: P.A. 92-22, eff. 6-30-01.)

10 (220 ILCS 5/13-301) (from Ch. 111 2/3, par. 13-301)

11 (Section scheduled to be repealed on July 1, 2005)

12 Sec. 13-301. Consistent with the findings and policy
13 established in paragraph (a) of Section 13-102 and paragraph
14 (a) of Section 13-103, and in order to ensure the attainment of
15 such policies, the Commission shall:

16 (a) participate in all federal programs intended to
17 preserve or extend universal telecommunications service,
18 unless such programs would place cost burdens on Illinois
19 customers of telecommunications services in excess of the
20 benefits they would receive through participation, provided,
21 however, the Commission shall not approve or permit the
22 imposition of any surcharge or other fee designed to subsidize
23 or provide a waiver for subscriber line charges; and shall
24 report on such programs together with an assessment of their
25 adequacy and the advisability of participating therein in its
26 annual report to the General Assembly, or more often as
27 necessary;

28 (b) establish a program to monitor the level of
29 telecommunications subscriber connection within each exchange
30 in Illinois, and shall report the results of such monitoring
31 and any actions it has taken or recommends be taken to maintain
32 and increase such levels in its annual report to the General
33 Assembly, or more often if necessary;

1 (c) (Blank). ~~order all telecommunications carriers~~
2 ~~offering or providing local exchange telecommunications~~
3 ~~service to propose low cost or budget service tariffs and any~~
4 ~~other rate design or pricing mechanisms designed to facilitate~~
5 ~~customer access to such telecommunications service, and shall~~
6 ~~after notice and hearing, implement any such proposals which it~~
7 ~~finds likely to achieve such purpose;~~

8 (d) investigate the necessity of and, if appropriate,
9 establish a universal service support fund from which local
10 exchange telecommunications carriers who pursuant to the
11 Twenty-Seventh Interim Order of the Commission in Docket No.
12 83-0142 or the orders of the Commission in Docket No. 97-0621
13 and Docket No. 98-0679 received funding and whose economic
14 costs of providing services for which universal service support
15 may be made available exceed the affordable rate established by
16 the Commission for such services may be eligible to receive
17 support, less any federal universal service support received
18 for the same or similar costs of providing the supported
19 services; provided, however, that if a universal service
20 support fund is established, the Commission shall require that
21 all costs of the fund be recovered from all local exchange and
22 interexchange telecommunications carriers certificated in
23 Illinois on a competitively neutral and nondiscriminatory
24 basis. In establishing any such universal service support fund,
25 the Commission shall, in addition to the determination of costs
26 for supported services, consider and make findings pursuant to
27 paragraphs (1), (2), and (4) of item (e) of this Section. Proxy
28 cost, as determined by the Commission, may be used for this
29 purpose. In determining cost recovery for any universal service
30 support fund, the Commission shall not permit recovery of such
31 costs from another certificated carrier for any service
32 purchased and used solely as an input to a service provided to
33 such certificated carrier's retail customers; and

34 (e) investigate the necessity of and, if appropriate,

1 establish a universal service support fund in addition to any
2 fund that may be established pursuant to item (d) of this
3 Section; provided, however, that if a telecommunications
4 carrier receives universal service support pursuant to item (d)
5 of this Section, that telecommunications carrier shall not
6 receive universal service support pursuant to this item.
7 Recipients of any universal service support funding created by
8 this item shall be "eligible" telecommunications carriers, as
9 designated by the Commission in accordance with 47 U.S.C.
10 214(e)(2). Eligible telecommunications carriers providing
11 local exchange telecommunications service may be eligible to
12 receive support for such services, less any federal universal
13 service support received for the same or similar costs of
14 providing the supported services. If a fund is established, the
15 Commission shall require that the costs of such fund be
16 recovered from all telecommunications carriers, with the
17 exception of public mobile service providers ~~wireless carriers~~
18 who are providers of two-way cellular telecommunications
19 service and who have not been designated as eligible
20 telecommunications carriers, on a competitively neutral and
21 non-discriminatory basis. In any order creating a fund pursuant
22 to this item, the Commission, after notice and hearing, shall:

23 (1) Define the group of services to be declared
24 "supported telecommunications services" that constitute
25 "universal service". This group of services shall, at a
26 minimum, include those services as defined by the Federal
27 Communications Commission and as from time to time amended.
28 In addition, the Commission shall consider the range of
29 services currently offered by telecommunications carriers
30 offering local exchange telecommunications service, the
31 existing rate structures for the supported
32 telecommunications services, and the telecommunications
33 needs of Illinois consumers in determining the supported
34 telecommunications services. The Commission shall, from

1 time to time or upon request, review and, if appropriate,
2 revise the group of Illinois supported telecommunications
3 services and the terms of the fund to reflect changes or
4 enhancements in telecommunications needs, technologies,
5 and available services.

6 (2) Identify all implicit subsidies contained in rates
7 or charges of incumbent local exchange carriers, including
8 all subsidies in interexchange access charges, and
9 determine how such subsidies can be made explicit by the
10 creation of the fund.

11 (3) Identify the incumbent local exchange carriers'
12 economic costs of providing the supported
13 telecommunications services.

14 (4) Establish an affordable price for the supported
15 telecommunications services for the respective incumbent
16 local exchange carrier. The affordable price shall be no
17 less than the rates in effect at the time the Commission
18 creates a fund pursuant to this item. The Commission may
19 establish and utilize indices or models for updating the
20 affordable price for supported telecommunications
21 services.

22 (5) Identify the telecommunications carriers from whom
23 the costs of the fund shall be recovered and the mechanism
24 to be used to determine and establish a competitively
25 neutral and non-discriminatory funding basis. From time to
26 time, or upon request, the Commission shall consider
27 whether, based upon changes in technology or other factors,
28 additional telecommunications providers should contribute
29 to the fund. The Commission shall establish the basis upon
30 which telecommunications carriers contributing to the fund
31 shall recover contributions on a competitively neutral and
32 non-discriminatory basis. In determining cost recovery for
33 any universal support fund, the Commission shall not permit
34 recovery of such costs from another certificated carrier

1 for any service purchased and used solely as an input to a
2 service provided to such certificated carriers' retail
3 customers.

4 (6) Approve a plan for the administration and operation
5 of the fund by a neutral third party consistent with the
6 requirements of this item.

7 No fund shall be created pursuant to this item until
8 existing implicit subsidies, including, but not limited to,
9 those subsidies contained in interexchange access charges,
10 have been identified and eliminated through revisions to rates
11 or charges. Prior to May 1, 2000, such revisions to rates or
12 charges to eliminate implicit subsidies shall occur
13 contemporaneously with any funding established pursuant to
14 this item. However, if the Commission does not establish a
15 universal service support fund by May 1, 2000, the Commission
16 shall not be prevented from entering an order or taking other
17 actions to reduce or eliminate existing subsidies as well as
18 considering the effect of such reduction or elimination on
19 local exchange carriers.

20 Any telecommunications carrier providing local exchange
21 telecommunications service which offers to its local exchange
22 customers a choice of two or more local exchange
23 telecommunications service offerings to residential end users
24 shall provide annually to its residential end users, or post on
25 its website, a list of its local exchange telecommunications
26 service offerings available to its residential end users, ~~to~~
27 ~~any such customer requesting it, once a year without charge, a~~
28 ~~report describing which local exchange telecommunications~~
29 ~~service offering would result in the lowest bill for such~~
30 ~~customer's local exchange service, based on such customer's~~
31 ~~calling pattern and usage for the previous 6 months. At least~~
32 ~~once a year, each such carrier shall provide a notice to each~~
33 ~~of its local exchange telecommunications service customers~~
34 ~~describing the availability of this report and the specific~~

1 ~~procedures by which customers may receive it. Such report shall~~
2 ~~only be available to current and future customers who have~~
3 ~~received at least 6 months of continuous local exchange service~~
4 ~~from such carrier.~~

5 (Source: P.A. 91-636, eff. 8-20-99.)

6 (220 ILCS 5/13-305)

7 (Section scheduled to be repealed on July 1, 2005)

8 Sec. 13-305. Amount of civil penalty. A telecommunications
9 carrier, any corporation other than a telecommunications
10 carrier, or any person acting as a telecommunications carrier
11 that violates or fails to comply with any provisions of this
12 Act or that fails to obey, observe, or comply with any order,
13 decision, rule, regulation, direction, or requirement, or any
14 part or provision thereof, of the Commission, made or issued
15 under authority of this Act, in a case in which a civil penalty
16 is not otherwise provided for in this Act, but excepting
17 Section 5-202 of the Act, shall be subject to a civil penalty
18 imposed in the manner provided in Section 13-304 of no more
19 than \$30,000 or 0.00825% of the carrier's gross intrastate
20 annual telecommunications revenue, whichever is greater, for
21 each offense unless the violator has fewer than 35,000
22 subscriber access lines, in which case the civil penalty may
23 not exceed \$2,000 for each offense.

24 Notwithstanding any other provision of this Section or
25 Article, if any telecommunications carrier subject to an
26 alternative form of regulation plan that was adopted by the
27 Commission prior to the effective date of this amendatory Act
28 of the 94th General Assembly violates the retail service
29 quality rules promulgated by the Commission pursuant to Section
30 13-712 or pursuant to such alternative form of regulation plan,
31 the Commission may impose, for any such violation by such
32 telecommunications carrier, maximum civil penalties of up to
33 \$33,000 or 0.00908% of such telecommunications carrier's gross

1 intrastate annual telecommunications revenue, whichever is
2 greater. This provision for a violation by a telecommunications
3 carrier subject to an alternative form of regulation plan as of
4 the effective date of this amendatory Act of the 94th General
5 Assembly shall remain in force and effect through July 1, 2008.

6 A telecommunications carrier subject to administrative
7 penalties resulting from a final Commission order approving an
8 intercorporate transaction entered pursuant to Section 7-204
9 of this Act shall be subject to penalties under this Section
10 imposed for the same conduct only to the extent that such
11 penalties exceed those imposed by the final Commission order.

12 Every violation of the provisions of this Act or of any
13 order, decision, rule, regulation, direction, or requirement
14 of the Commission, or any part or provision thereof, by any
15 corporation or person, is a separate and distinct offense.
16 Penalties under this Section shall attach and begin to accrue
17 from the day after written notice is delivered to such party or
18 parties that they are in violation of or have failed to comply
19 with this Act or an order, decision, rule, regulation,
20 direction, or requirement of the Commission, or part or
21 provision thereof. In case of a continuing violation, each
22 day's continuance thereof shall be a separate and distinct
23 offense.

24 In construing and enforcing the provisions of this Act
25 relating to penalties, the act, omission, or failure of any
26 officer, agent, or employee of any telecommunications carrier
27 or of any person acting within the scope of his or her duties
28 or employment shall in every case be deemed to be the act,
29 omission, or failure of such telecommunications carrier or
30 person.

31 If the party who has violated or failed to comply with this
32 Act or an order, decision, rule, regulation, direction, or
33 requirement of the Commission, or any part or provision
34 thereof, fails to seek timely review pursuant to Sections

1 10-113 and 10-201 of this Act, the party shall, upon expiration
2 of the statutory time limit, be subject to the civil penalty
3 provision of this Section.

4 Twenty percent of all moneys collected under this Section
5 shall be deposited into the Digital Divide Elimination Fund and
6 20% of all moneys collected under this Section shall be
7 deposited into the Digital Divide Elimination Infrastructure
8 Fund.

9 (Source: P.A. 92-22, eff. 6-30-01.)

10 (220 ILCS 5/13-400 new)

11 Sec. 13-400. Commission jurisdiction prohibited.

12 (a) The Commission shall not exercise jurisdiction over:

13 (1) advanced services, as defined in Section 13-203.2;

14 (2) broadband service, as defined in Section 13-203.3;

15 (3) any retail service not commercially available on
16 the effective date of this amendatory Act of the 94th
17 General Assembly;

18 (4) information services, as defined in Section
19 13-203.4;

20 (5) Internet protocol ("IP") enabled services, as
21 defined in Section 13-203.5; and

22 (6) customer premises equipment, as defined in Section
23 13-203.6.

24 (b) Notwithstanding the provisions of subsection (a), the
25 Commission shall have jurisdiction to the extent that it has
26 been specifically delegated to the Commission by the
27 Telecommunications Act of 1996 or any successors or amendments
28 thereof or by orders of and regulations promulgated by the
29 Federal Communications Commission.

30 (220 ILCS 5/13-401) (from Ch. 111 2/3, par. 13-401)

31 (Section scheduled to be repealed on July 1, 2005)

32 Sec. 13-401. Certificate of Service Authority.

1 (a) No telecommunications carrier not possessing a
2 certificate of public convenience and necessity or certificate
3 of authority from the Commission at the time this Article goes
4 into effect shall transact any business in this State until it
5 shall have obtained a certificate of service authority from the
6 Commission pursuant to the provisions of this Article.

7 No telecommunications carrier offering or providing, or
8 seeking to offer or provide, any interexchange
9 telecommunications service shall do so until it has applied for
10 and received a Certificate of Interexchange Service Authority
11 pursuant to the provisions of Section 13-403. No
12 telecommunications carrier offering or providing, or seeking
13 to offer or provide, any local exchange telecommunications
14 service shall do so until it has applied for and received a
15 Certificate of Exchange Service Authority pursuant to the
16 provisions of Section 13-405.

17 Notwithstanding Sections 13-403, 13-404, and 13-405, the
18 Commission shall approve a cellular radio application for a
19 Certificate of Service Authority without a hearing upon a
20 showing by the cellular applicant that the Federal
21 Communications Commission has issued to it a construction
22 permit or an operating license to construct or operate a
23 cellular radio system in the area as defined by the Federal
24 Communications Commission, or portion of the area, for which
25 the carrier seeks a Certificate of Service Authority.

26 No Certificate of Service Authority issued by the
27 Commission shall be construed as granting a monopoly or
28 exclusive privilege, immunity or franchise. The issuance of a
29 Certificate of Service Authority to any telecommunications
30 carrier shall not preclude the Commission from issuing
31 additional Certificates of Service Authority to other
32 telecommunications carriers providing the same or equivalent
33 service or serving the same geographical area or customers as
34 any previously certified carrier, ~~except to the extent~~

1 ~~otherwise provided by Sections 13-403 and 13-405.~~

2 Any certificate of public convenience and necessity
3 granted by the Commission to a telecommunications carrier prior
4 to the effective date of this Article shall remain in full
5 force and effect, and such carriers need not apply for a
6 Certificate of Service Authority in order to continue offering
7 or providing service to the extent authorized in such
8 certificate of public convenience and necessity. Any such
9 carrier, however, prior to substantially altering the nature or
10 scope of services provided under a certificate of public
11 convenience and necessity, or adding or expanding services
12 beyond the authority contained in such certificate, must apply
13 for a Certificate of Service Authority for such alterations or
14 additions pursuant to the provisions of this Article.

15 The Commission shall review and modify the terms of any
16 certificate of public convenience and necessity issued to a
17 telecommunications carrier prior to the effective date of this
18 Article in order to ensure its conformity with the requirements
19 and policies of this Article. Any Certificate of Service
20 Authority may be altered or modified by the Commission, after
21 notice and hearing, upon its own motion or upon application of
22 the person or company affected. Unless exercised within a
23 period of two years from the issuance thereof, authority
24 conferred by a Certificate of Service Authority shall be null
25 and void.

26 (b) The Commission may issue a temporary Certificate which
27 shall remain in force not to exceed one year in cases of
28 emergency, to assure maintenance of adequate service or to
29 serve particular customers, without notice and hearing,
30 pending the determination of an application for a Certificate,
31 and may by regulation exempt from the requirements of this
32 Section temporary acts or operations for which the issuance of
33 a certificate is not necessary in the public interest and which
34 will not be required therefor.

1 (Source: P.A. 87-856.)

2 (220 ILCS 5/13-403) (from Ch. 111 2/3, par. 13-403)

3 (Section scheduled to be repealed on July 1, 2005)

4 Sec. 13-403. Interexchange service authority; approval.
5 The Commission shall approve an application for a Certificate
6 of Interexchange Service Authority only upon a showing by the
7 applicant, and a finding by the Commission, after notice and
8 hearing, that the applicant possesses sufficient technical,
9 financial and managerial resources and abilities to provide
10 interexchange telecommunications service. ~~The removal from
11 this Section of the dialing restrictions by this amendatory Act
12 of 1992 does not create any legislative presumption for or
13 against intra Market Service Area presubscription or changes
14 in intra Market Service Area dialing arrangements related to
15 the implementation of that presubscription, but simply vests
16 jurisdiction in the Illinois Commerce Commission to consider
17 after notice and hearing the issue of presubscription in
18 accordance with the policy goals outlined in Section 13-103.~~

19 The Commission shall have authority to alter the boundaries
20 of Market Service Areas when such alteration is consistent with
21 the public interest and the purposes and policies of this
22 Article. ~~A determination by the Commission with respect to
23 Market Service Area boundaries shall not modify or affect the
24 rights or obligations of any telecommunications carrier with
25 respect to any consent decree or agreement with the United
26 States Department of Justice, including, but not limited to,
27 the Modification of Final Judgment in United States v. Western
28 Electric Co., 552 F. Supp. 131 (D.D.C. 1982), as modified from
29 time to time.~~

30 (Source: P.A. 91-357, eff. 7-29-99.)

31 (220 ILCS 5/13-406) (from Ch. 111 2/3, par. 13-406)

32 (Section scheduled to be repealed on July 1, 2005)

1 Sec. 13-406. No telecommunications carrier offering or
2 providing noncompetitive telecommunications service pursuant
3 to a valid Certificate of Service Authority or certificate of
4 public convenience and necessity or price-capped competitive
5 telecommunications service pursuant to subsection (b) of
6 13-506.1 shall discontinue or abandon such service once
7 initiated until and unless it shall demonstrate, and the
8 Commission finds, after notice and hearing, that such
9 discontinuance or abandonment will not deprive customers of any
10 necessary or essential telecommunications service or access
11 thereto and is not otherwise contrary to the public interest.
12 No telecommunications carrier offering or providing
13 competitive telecommunications service shall discontinue or
14 abandon such service once initiated except upon 30 days notice
15 to the Commission and affected customers. ~~The Commission may,~~
16 ~~upon its own motion or upon complaint, investigate the proposed~~
17 ~~discontinuance or abandonment of a competitive~~
18 ~~telecommunications service and may, after notice and hearing,~~
19 ~~prohibit such proposed discontinuance or abandonment if the~~
20 ~~Commission finds that it would be contrary to the public~~
21 ~~interest.~~

22 (Source: P.A. 84-1063.)

23 (220 ILCS 5/13-407) (from Ch. 111 2/3, par. 13-407)

24 (Section scheduled to be repealed on July 1, 2005)

25 Sec. 13-407. Commission study and report. The Commission
26 shall monitor and analyze patterns of entry and exit and
27 changes in patterns of entry and exit for each relevant market
28 for telecommunications services, including ~~emerging~~ high speed
29 telecommunications markets and all services defined in
30 Sections 13-203.2, 13-203.3, 13-203.4, and 13-203.5, and shall
31 include its findings together with appropriate recommendations
32 for legislative action in its annual report to the General
33 Assembly.

1 The Commission shall also monitor and analyze the status of
2 deployment of services to consumers, and any resulting "digital
3 divisions" between consumers, including any changes or trends
4 therein. The Commission shall include its findings together
5 with appropriate recommendations for legislative action in its
6 annual report to the General Assembly. In preparing this
7 analysis the Commission shall evaluate information provided by
8 telecommunications carriers that pertains to the state of
9 competition in telecommunications markets including, but not
10 limited to:

11 (1) the number and type of firms providing
12 communications ~~telecommunications~~ services, including the
13 services defined in Sections 13-203.2, 13-203.3, and
14 13-203.5 ~~broadband telecommunications services~~, within the
15 State;

16 (2) the communications ~~telecommunications~~ services
17 offered by these firms to both retail and wholesale
18 customers;

19 (3) the extent to which customers and other providers
20 are purchasing the firms' communications
21 ~~telecommunications~~ services;

22 (4) the technologies or methods by which these firms
23 provide these services, including descriptions of
24 technologies in place and under development, and the degree
25 to which firms rely on other ~~wholesale~~ providers to provide
26 service to their own customers; and

27 (5) the ~~tariffed retail and wholesale~~ prices for
28 services provided by these firms.

29 The Commission shall at a minimum assess the variability in
30 this information according to geography, examining variability
31 by exchange, wirecenter, or zip code, and by customer class,
32 examining, at a minimum, the variability between residential
33 and small, medium, and large business customers. The Commission
34 shall provide an analysis of market trends by collecting this

1 information from firms providing communications
2 ~~telecommunications~~ services within the State. The Commission
3 shall also collect all information, in a format determined by
4 the Commission, that the Commission deems necessary to assist
5 in monitoring and analyzing the communications
6 ~~telecommunications~~ markets and the status of competition and
7 deployment of communications ~~telecommunications~~ services to
8 consumers in the State.

9 (Source: P.A. 92-22, eff. 6-30-01.)

10 (220 ILCS 5/13-501) (from Ch. 111 2/3, par. 13-501)

11 (Section scheduled to be repealed on July 1, 2005)

12 Sec. 13-501. Tariff; filing.

13 (a) No telecommunications carrier shall offer or provide
14 telecommunications service to a residential end user unless and
15 until a tariff is filed with the Commission which describes the
16 nature of the service, applicable rates and other charges,
17 terms and conditions of service, and the exchange, exchanges or
18 other geographical area or areas in which the service shall be
19 offered or provided. The Commission may prescribe the form of
20 such tariff regarding a telecommunications service offered or
21 provided to a residential end user and any additional data or
22 information which shall be included therein. A
23 telecommunications carrier that offers or provides a
24 telecommunications service to business end users may file a
25 tariff with the Commission that describes the nature of the
26 service, applicable rates and other charges, terms and
27 conditions of service, and the exchange, exchanges or other
28 geographical area or areas in which the service will be offered
29 or provided.

30 (b) After a hearing on noncompetitive services or a hearing
31 pursuant to subsection (d) of Section 13-505 for competitive
32 services, the Commission has the discretion to impose an
33 interim or permanent tariff on a telecommunications carrier as

1 part of the order in the case. When a tariff is imposed as part
2 of the order in a case, the tariff shall remain in full force
3 and effect until a compliance tariff, or superseding tariff, is
4 filed by the telecommunications carrier and, after notice to
5 the parties in the case and after a compliance hearing is held,
6 is found by the Commission to be in compliance with the
7 Commission's order.

8 (c) Nothing in this Section shall be construed to require a
9 telecommunications carrier to tariff special equipment and
10 service arrangements when provided to meet the unique
11 telecommunications services requirements of a small number of
12 customers.

13 (Source: P.A. 92-22, eff. 6-30-01.)

14 (220 ILCS 5/13-502) (from Ch. 111 2/3, par. 13-502)

15 (Section scheduled to be repealed on July 1, 2005)

16 Sec. 13-502. Classification of services.

17 (a) All telecommunications services offered or provided
18 under tariff by telecommunications carriers shall be
19 classified as either competitive or noncompetitive. A
20 telecommunications carrier may offer or provide either
21 competitive or noncompetitive telecommunications services, or
22 both, subject to proper certification and other applicable
23 provisions of this Article. Any tariff filed with the
24 Commission as required by Section 13-501 shall indicate whether
25 the service to be offered or provided is competitive or
26 noncompetitive.

27 (a-5) All telecommunications services offered or provided
28 by any telecommunications carrier, including, without
29 limitation, all existing or future telecommunications
30 services, facilities, features, or functionalities, shall be
31 classified as competitive as of the effective date of this
32 amendatory Act of the 94th General Assembly without further
33 Commission review, except as provided in this subsection. The

1 competitive classification provided in this subsection shall
2 apply to the telecommunications services offered or provided by
3 any telecommunications carrier that, on or after the effective
4 date of this amendatory Act of the 94th General Assembly, has
5 entered into an approved interconnection agreement with one or
6 more unaffiliated competitive carriers as a result of
7 negotiations or arbitrations, pursuant to the provisions of
8 Section 251 of the federal Telecommunications Act of 1996 or
9 any successors or amendments thereof.

10 (b) For a telecommunications carrier that has not entered
11 into an approved interconnection agreement in accordance with
12 subsection (a-5), a ~~A~~ service shall be classified as
13 competitive only if, and only to the extent that, for some
14 identifiable class or group of customers in an exchange, group
15 of exchanges, or some other clearly defined geographical area,
16 such service, or its functional equivalent, or a substitute
17 service, is reasonably available from more than one provider,
18 whether or not any such provider is a telecommunications
19 carrier subject to regulation under this Act. All
20 telecommunications services not properly classified as
21 competitive shall be classified as noncompetitive. The
22 Commission shall have the power to investigate the propriety of
23 any classification of a telecommunications service on its own
24 motion and shall investigate upon complaint. In any hearing or
25 investigation, the burden of proof as to the proper
26 classification of any service shall rest upon the
27 telecommunications carrier providing the service. After notice
28 and hearing, the Commission shall order the proper
29 classification of any service in whole or in part. The
30 Commission shall make its determination and issue its final
31 order no later than 180 days from the date such hearing or
32 investigation is initiated. If the Commission enters into a
33 hearing upon complaint and if the Commission fails to issue an
34 order within that period, the complaint shall be deemed granted

1 unless the Commission, the complainant, and the
2 telecommunications carrier providing the service agree to
3 extend the time period.

4 (c) In determining whether a service should be reclassified
5 as competitive for carriers subject to subsection (b), the
6 Commission shall, at a minimum, consider the following factors:

7 (1) the number, size, and geographic distribution of
8 other providers of the service;

9 (2) the availability of functionally equivalent
10 services in the relevant geographic area and the ability of
11 telecommunications carriers or other persons to make the
12 same, equivalent, or substitutable service readily
13 available in the relevant market at comparable rates,
14 terms, and conditions;

15 (3) the existence of economic, technological, or any
16 other barriers to entry into, or exit from, the relevant
17 market;

18 (4) the extent to which other telecommunications
19 companies must rely upon the service of another
20 telecommunications carrier to provide telecommunications
21 service; and

22 (5) any other factors that may affect competition and
23 the public interest that the Commission deems appropriate.

24 (d) No tariff classifying a new telecommunications service
25 as competitive or reclassifying a previously noncompetitive
26 telecommunications service as competitive, which is filed by a
27 telecommunications carrier subject to subsection (b) which
28 also offers or provides noncompetitive telecommunications
29 service, shall be effective unless and until such
30 telecommunications carrier offering or providing, or seeking
31 to offer or provide, such proposed competitive service prepares
32 and files a study of the long-run service incremental cost
33 underlying such service and demonstrates that the tariffed
34 rates and charges for the service and any relevant group of

1 services that includes the proposed competitive service and for
2 which resources are used in common solely by that group of
3 services are not less than the long-run service incremental
4 cost of providing the service and each relevant group of
5 services. Such study shall be given proprietary treatment by
6 the Commission at the request of such carrier if any other
7 provider of the competitive service, its functional
8 equivalent, or a substitute service in the geographical area
9 described by the proposed tariff has not filed, or has not been
10 required to file, such a study.

11 (e) In the event any telecommunications service has been
12 classified and filed as competitive by the telecommunications
13 carrier, and has been offered or provided on such basis, and
14 the Commission subsequently determines after investigation
15 that such classification improperly included services which
16 were in fact noncompetitive, the Commission shall have the
17 power to determine and order refunds to customers for any
18 overcharges which may have resulted from the improper
19 classification, or to order such other remedies provided to it
20 under this Act, or to seek an appropriate remedy or relief in a
21 court of competent jurisdiction. This subsection (e) does not
22 apply to any telecommunications services that have been
23 classified as competitive pursuant to subsection (a-5).

24 (f) If no hearing or investigation regarding the propriety
25 of a competitive classification of a telecommunications
26 service is initiated within 180 days after a telecommunications
27 carrier files a tariff listing such telecommunications service
28 as competitive, no refunds to customers for any overcharges
29 which may result from an improper classification shall be
30 ordered for the period from the time the telecommunications
31 carrier filed such tariff listing the service as competitive up
32 to the time an investigation of the service classification is
33 initiated by the Commission's own motion or the filing of a
34 complaint. Where a hearing or an investigation regarding the

1 propriety of a telecommunications service classification as
2 competitive is initiated after 180 days from the filing of the
3 tariff, the period subject to refund for improper
4 classification shall begin on the date such investigation or
5 hearing is initiated by the filing of a Commission motion or a
6 complaint. This subsection (f) does not apply to any
7 telecommunications services that have been classified as
8 competitive pursuant to subsection (a-5).

9 (Source: P.A. 92-22, eff. 6-30-01.)

10 (220 ILCS 5/13-504) (from Ch. 111 2/3, par. 13-504)

11 (Section scheduled to be repealed on July 1, 2005)

12 Sec. 13-504. Application of ratemaking provisions of
13 Article IX.

14 (a) Except where the context clearly renders such
15 provisions inapplicable, the ratemaking provisions of Article
16 IX of this Act relating to public utilities are fully and
17 equally applicable to the rates, charges, tariffs and
18 classifications for the offer or provision of noncompetitive
19 telecommunications services. However, the ratemaking
20 provisions do not apply to any proposed change in rates or
21 charges, any proposed change in any classification or tariff
22 resulting in a change in rates or charges, or the establishment
23 of new services and rates therefor for a noncompetitive local
24 exchange telecommunications service offered or provided by a
25 local exchange telecommunications carrier with no more than
26 35,000 subscriber access lines. Proposed changes in rates,
27 charges, classifications, or tariffs meeting these criteria
28 shall be permitted upon the filing of the proposed tariff and
29 30 days notice to the Commission and all potentially affected
30 customers. The proposed changes shall not be subject to
31 suspension. The Commission shall investigate whether any
32 proposed change is just and reasonable only if a
33 telecommunications carrier that is a customer of the local

1 exchange telecommunications carrier or 10% of the potentially
2 affected access line subscribers of the local exchange
3 telecommunications carrier shall file a petition or complaint
4 requesting an investigation of the proposed changes. When the
5 telecommunications carrier or 10% of the potentially affected
6 access line subscribers of a local exchange telecommunications
7 carrier file a complaint, the Commission shall, after notice
8 and hearing, have the power and duty to establish the rates,
9 charges, classifications, or tariffs it finds to be just and
10 reasonable.

11 (b) Subsection (c) of Section 13-502 and Sections 13-505.1~~7~~
12 ~~13-505.4, 13-505.6,~~ and 13-507 of this Article do not apply to
13 rates or charges or proposed changes in rates or charges for
14 applicable competitive or interexchange services when offered
15 or provided by a local exchange telecommunications carrier with
16 no more than 35,000 subscriber access lines. In addition,
17 Sections 13-514, 13-515, and 13-516 do not apply to
18 telecommunications carriers with no more than 35,000
19 subscriber access lines. The Commission may require
20 telecommunications carriers with no more than 35,000
21 subscriber access lines to furnish information that the
22 Commission deems necessary for a determination that rates and
23 charges for any competitive telecommunications service are
24 just and reasonable.

25 (c) For a local exchange telecommunications carrier with no
26 more than 35,000 access lines, the Commission shall consider
27 and adjust, as appropriate, a local exchange
28 telecommunications carrier's depreciation rates only in
29 ratemaking proceedings.

30 (d) Article VI and ~~Sections 7-101 and 7-102 of~~ Article VII
31 of this Act pertaining to public utilities, public utility
32 rates and services, and the regulation thereof are not
33 applicable to local exchange telecommunication carriers with
34 no more than 35,000 subscriber access lines.

1 (Source: P.A. 89-139, eff. 1-1-96; 90-185, eff. 7-23-97.)

2 (220 ILCS 5/13-505) (from Ch. 111 2/3, par. 13-505)

3 (Section scheduled to be repealed on July 1, 2005)

4 Sec. 13-505. Price Rate changes and cost studies,
5 ~~competitive services.~~

6 (a) Any ~~proposed~~ increase or decrease in rates or charges,
7 or proposed change in any classification or tariff resulting in
8 an increase or decrease in rates or charges, for a competitive
9 telecommunications service shall be effective ~~permitted~~ upon
10 the filing of the proposed rate, charge, classification, or
11 tariff. Prior notice of an increase shall be given to all
12 potentially affected customers by mail, publication in a
13 newspaper of general circulation, or equivalent means of
14 notice.

15 (b) Notwithstanding any of the other provisions in Section
16 9-201 or Section 13-504, as applicable, any proposed increase
17 or decrease in the rates or charges of non-competitive
18 telecommunications services shall be effective 15 days after
19 filing with the Commission. Prior notice of an increase or
20 decrease shall be given to all potentially affected customers
21 by mail, publication in a newspaper of general circulation, or
22 equivalent means of notice. If a hearing is held pursuant to
23 Section 9-250 regarding the reasonableness of an increase in
24 the rates or charges of a competitive local exchange service,
25 then the telecommunications carrier providing the service
26 shall have the burden of proof to establish the justness and
27 reasonableness of the proposed rate or charge.

28 (c) The Commission shall not require a cost study to be
29 filed for the following: (i) any statutory reclassification of
30 a service pursuant to subsection (a-5) of Section 13-502 of
31 this Article; (ii) any price increase for any competitive or
32 noncompetitive telecommunications service; (iii) any retail
33 service package filed pursuant to Section 13-518.1 or any price

1 increase or decrease to such service package; or (iv) any new
2 retail service offering, including new or revised features and
3 functionalities of an existing service.

4 (d) For price changes other than those described in
5 subsection (c) above, no cost study shall be required unless:

6 (i) upon the written complaint to the Commission by a
7 telecommunications carrier that offers a competing
8 telecommunications service to the telecommunications service
9 for which the price is being changed; and (ii) if the
10 Commission has a reasonable basis to believe that the changed
11 price for such telecommunications service may not exceed the
12 long-run service incremental cost of such service, the
13 Commission shall provide notice in writing to the
14 telecommunications carrier offering such service of the basis
15 for that belief. The telecommunications carrier shall respond
16 in writing within 21 days and shall indicate whether the price
17 exceeds long-run service incremental cost or whether that price
18 is being offered to meet an offer to end users by a competing
19 telecommunications carrier or to meet an offer made to a former
20 end user that has accepted an offer for that service from a
21 competing telecommunications carrier. If the
22 telecommunications carrier responds that the price is being
23 offered to meet the price of a competitor, then the
24 telecommunications carrier shall provide the price being
25 offered by the competitor and a description of the product or
26 service being provided by the competitor at that price. The
27 Commission shall not take any further regulatory action if the
28 telecommunications carrier demonstrates that the price is
29 being offered to meet an offer to end users by a competing
30 telecommunications carrier or to meet an offer made to a former
31 end user that has accepted an offer for that service from a
32 competing telecommunications carrier. If, after receiving the
33 telecommunications carrier's response, the Commission has a
34 reasonable basis to conclude that the disputed price does not

1 exceed the long-run service incremental cost of such service
2 and that the price is not being offered to meet an offer to end
3 users by a competing telecommunications carrier or to a former
4 end user that has accepted an offer for that service from a
5 competing telecommunications carrier, the Commission may
6 initiate a proceeding to investigate the reasonableness of the
7 price. The telecommunications carrier shall provide a cost
8 study to the Commission within 28 days of a request made by the
9 Commission during such proceeding. If, after notice and
10 hearing, the Commission determines that such disputed price
11 does not exceed the long-run service incremental cost of such
12 service and that the price is not being offered in response to
13 an offer to end users by a competing telecommunications carrier
14 or to a former end user that has accepted an offer for that
15 service from a competing telecommunications carrier, it shall
16 order the telecommunications carrier to adjust such disputed
17 price so that the revised price recovers the long-run service
18 incremental cost of such service.

19 (c) Nothing in this Section shall be construed to limit any
20 telecommunications carrier's ability to bring an action under
21 other applicable law.

22 (Source: P.A. 90-185, eff. 7-23-97.)

23 (220 ILCS 5/13-506)

24 (Section scheduled to be repealed on July 1, 2005)

25 Sec. 13-506. Tariffs for competitive telecommunications
26 services.

27 (a) Telecommunications carriers may file ~~proposed~~ tariffs
28 for any competitive telecommunications service which includes
29 and specifically describes a range, band, formula, or standard
30 within which or by which a change in rates or charges for such
31 telecommunications service could be made without prior notice
32 ~~or prior Commission approval, provided that any and all rates~~
33 ~~or charges within the band or range, or determinable by the~~

1 ~~operation of the formula or standard, are consistent with the~~
2 ~~public interest and the purpose and policies of this Article~~
3 ~~and Act, and are likely to remain so for the foreseeable~~
4 ~~future. To the extent any proposed band or range encompasses~~
5 ~~rates or charges which are not consistent with the public~~
6 ~~interest and the purposes and policies of this Article and Act~~
7 ~~or otherwise fully proper, or any proposed formula or standard~~
8 ~~determines rates or charges which are not consistent with the~~
9 ~~purposes and policies of this Article and Act or otherwise~~
10 ~~fully proper, the Commission after notice and hearing shall~~
11 ~~have the power to modify the level, scope, or limits of such~~
12 ~~band or range, and to modify or limit the operation of such~~
13 ~~formula or standard, as necessary, to ensure that rates or~~
14 ~~charges resulting therefrom are consistent with the purposes~~
15 ~~and policies of this Article and Act and fully proper, and~~
16 ~~likely to remain so in the foreseeable future.~~

17 (b) (Blank). ~~The Commission may require a~~
18 ~~telecommunications carrier to file a variable tariff as~~
19 ~~described in paragraph (a) for any or all competitive~~
20 ~~telecommunications services which are offered or provided by~~
21 ~~such carrier, if the Commission finds, after notice and~~
22 ~~hearing, that the determination of rates or charges for such~~
23 ~~service by a tariff would improve the Commission's ability to~~
24 ~~effectively regulate such rates or charges and that such~~
25 ~~improvement is required by the public interest. Any such tariff~~
26 ~~required by the Commission shall be approved only if it is also~~
27 ~~consistent with the provisions of paragraph (a) of this~~
28 ~~Section.~~

29 (c) After a tariff filed pursuant to this Section becomes
30 effective, the telecommunications carrier shall determine the
31 rates and charges for services according to the provisions
32 thereof.

33 (Source: P.A. 90-185, eff. 7-23-97; 90-574, eff. 3-20-98;
34 90-655, eff. 7-30-98.)

1 (220 ILCS 5/13-506.1) (from Ch. 111 2/3, par. 13-506.1)

2 (Section scheduled to be repealed on July 1, 2005)

3 Sec. 13-506.1. Alternative form ~~forms~~ of regulation ~~for~~
4 ~~noncompetitive services.~~

5 (a) In addition to the provisions of this Article, the
6 services classified as competitive pursuant to subsection
7 (a-5) of Section 13-502 of this Article under this amendatory
8 Act of the 94th General Assembly and offered or provided by any
9 qualifying telecommunications carrier, as defined in this
10 Section, shall also be subject to the ratemaking provisions of
11 Article IX or Section 13-504, as applicable, unless the carrier
12 offering the competitively classified services elects to be
13 subject to the provisions of this Section. ~~Notwithstanding any~~
14 ~~of the ratemaking provisions of this Article or Article IX that~~
15 ~~are deemed to require rate of return regulation, the~~ Upon
16 providing notice to the Commission pursuant to subsection (b),
17 a qualifying telecommunications carrier shall be subject to ~~may~~
18 ~~implement~~ an alternative form forms of regulation in the form
19 of a rate moratorium plan, as defined in this Section, which is
20 hereinafter referred to as the basic dial tone protection plan.
21 ~~in order to establish just and reasonable rates for~~
22 ~~noncompetitive telecommunications services including, but not~~
23 ~~limited to, price regulation, earnings sharing, rate~~
24 ~~moratoria, or a network modernization plan. The Commission is~~
25 ~~authorized to adopt different forms of regulation to fit the~~
26 ~~particular characteristics of different telecommunications~~
27 ~~carriers and their service areas.~~

28 The General Assembly finds and declares that such a basic
29 dial tone protection plan meets ~~In addition to~~ the public
30 policy goals declared in Section 13-103 and the goals of this
31 Section to: ~~the Commission shall consider, in determining the~~
32 ~~appropriateness of any alternative form of regulation, whether~~
33 ~~it will:~~

1 (1) recognize the significant level of retail
2 competition in the communications industry and the
3 convergence of technologies; ~~reduce regulatory delay and~~
4 ~~costs over time;~~

5 (2) adopt a more appropriate form of regulation;

6 (3) ~~(2)~~ encourage innovation in services;

7 (4) ~~(3)~~ promote efficiency;

8 (5) ~~(4)~~ facilitate the broad dissemination of
9 technical improvements to all end users ~~classes of~~
10 ~~ratepayers;~~

11 (6) ~~(5)~~ enhance economic development of the State; ~~and~~

12 (7) ~~(6)~~ provide for market-based pricing of retail
13 telecommunications services in a competitive
14 communications environment. ~~fair, just, and reasonable~~
15 ~~rates.~~

16 ~~(b) A telecommunications carrier providing noncompetitive~~
17 ~~telecommunications services may petition the Commission to~~
18 ~~regulate the rates or charges of its noncompetitive services~~
19 ~~under an alternative form of regulation. The~~
20 ~~telecommunications carrier shall submit with its petition its~~
21 ~~plan for an alternative form of regulation. The Commission~~
22 ~~shall review and may modify or reject the carrier's proposed~~
23 ~~plan. The Commission also may initiate consideration of~~
24 ~~alternative forms of regulation for a telecommunications~~
25 ~~carrier on its own motion. The Commission may approve the plan~~
26 ~~or modified plan and authorize its implementation only if it~~
27 ~~finds, after notice and hearing, that the plan or modified plan~~
28 ~~at a minimum:~~

29 The General Assembly further finds that such a plan:

30 (1) is in the public interest;

31 ~~(2) will produce fair, just, and reasonable rates for~~
32 ~~telecommunications services;~~

33 ~~(3) responds to changes in technology and the structure~~
34 ~~of the telecommunications industry that are, in fact,~~

1 ~~occurring;~~

2 ~~(4) constitutes a more appropriate form of regulation~~
3 ~~based on the Commission's overall consideration of the~~
4 ~~policy goals set forth in Section 13-103 and this Section;~~

5 ~~(5) specifically identifies how ratepayers will~~
6 ~~benefit from any efficiency gains, cost savings arising out~~
7 ~~of the regulatory change, and improvements in productivity~~
8 ~~due to technological change;~~

9 (2) (6) will maintain the quality and availability of
10 retail telecommunications services; and

11 (3) (7) will not unduly or unreasonably prejudice or
12 disadvantage any particular customer class, including
13 non-qualifying telecommunications carriers.

14 (b) Any qualifying telecommunications carrier may elect to
15 be governed under a rate moratorium alternative form of
16 regulation that consists of the provisions contained in the
17 provisions of this subsection (b) upon providing notice to the
18 Commission that it elects to do so. A rate moratorium
19 alternative form of regulation plan that contains the
20 provisions of this subsection (b) shall become effective 30
21 days after notice is provided by any qualifying
22 telecommunications carrier to the Commission. During that 30
23 day period, the qualifying telecommunications carrier shall
24 remain subject to the form of regulation that it was under on
25 the date that it provided notice to the Commission. The rate
26 moratorium alternative form of regulation plan authorized by
27 this subsection (b) shall consist of the following provisions:

28 (1) All price-capped competitive telecommunications
29 services, as defined in this Section, offered or provided
30 by any qualifying telecommunications carrier shall be
31 included in the basic dial tone protection plan. All other
32 competitive telecommunications services shall be excluded
33 from such plan.

34 (2) The rates for price-capped competitive

1 telecommunications services shall not exceed the rates
2 that the telecommunications carrier charged for those
3 services on February 1, 2005; this restriction upon the
4 rates of such price-capped competitive telecommunications
5 services shall remain in full force and effect through July
6 1, 2008; provided, however, that nothing shall be construed
7 to prohibit reduction of those rates;

8 (3) Notwithstanding any other provision in this
9 Section or Article, a telecommunications carrier that
10 elects to be subject to a dial tone protection plan
11 pursuant to this Section shall continue to offer the
12 price-capped competitive telecommunications services at
13 all times through July 1, 2008;

14 (4) Notwithstanding any other provision in this
15 Section or Article, any residential end user may elect to
16 purchase price-capped competitive telecommunications
17 service at any time through July 1, 2008 and, to the extent
18 that such residential end user elects to change service
19 from a retail service package not subject to such dial tone
20 protection plan to price-capped competitive
21 telecommunications service, any applicable termination
22 provisions of the retail service package shall apply, but
23 only if such residential end user has been clearly informed
24 of the existence of any term and termination fees at the
25 time such residential end user ordered such service
26 package; and

27 (5) No other terms from any plan adopted under prior
28 Commission authority shall be required under subsection
29 (b), except to the extent set forth in Section 13-712
30 (e-10) regarding retail service quality measures,
31 exclusions, calculations, and standards for any
32 telecommunications carrier subject to an alternative form
33 of regulation plan on the effective date of this amendatory
34 Act of the 94th General Assembly.

1 (c) For purposes of subsection (b) of this Section: (i)
2 "price-capped competitive telecommunications service" means
3 the stand-alone primary residence network access lines, along
4 with any associated untimed local usage charged on a per-call
5 basis and not subject to presubscription (for purposes of this
6 subsection, a primary residence network access line with such
7 usage shall be considered a stand-alone offering subject to
8 price cap, notwithstanding the purchase by the customer of
9 additional service elements, features or functionalities for
10 such line, so long as such additional service elements,
11 features, or functionalities are purchased on an individual
12 basis, and not as part of a service package, the additional
13 service elements, features, or functionalities for such line
14 shall not be subject to price cap); and (ii) a "qualifying
15 telecommunications carrier" is any incumbent local exchange
16 carrier that has entered into an approved interconnection
17 agreement with one or more unaffiliated competitive carriers as
18 a result of negotiations or arbitration pursuant to the
19 provisions of Section 251 of the federal Telecommunications Act
20 of 1996 or any successors or amendments thereof.

21 ~~(c) An alternative regulation plan approved under this~~
22 ~~Section shall provide, as a condition for Commission approval~~
23 ~~of the plan, that for the first 3 years the plan is in effect,~~
24 ~~basic residence service rates shall be no higher than those~~
25 ~~rates in effect 180 days before the filing of the plan. This~~
26 ~~provision shall not be used as a justification or rationale for~~
27 ~~an increase in basic service rates for any other customer~~
28 ~~class. For purposes of this Section, "basic residence service~~
29 ~~rates" shall mean monthly recurring charges for the~~
30 ~~telecommunications carrier's lowest priced primary residence~~
31 ~~network access lines, along with any associated untimed or flat~~
32 ~~rate local usage charges. Nothing in this subsection (c) shall~~
33 ~~preclude the Commission from approving an alternative~~
34 ~~regulation plan that results in rate reductions provided all~~

1 ~~the requirements of subsection (b) are satisfied by the plan.~~

2 ~~(d) Any alternative form of regulation granted for a~~
3 ~~multi-year period under this Section shall provide for annual~~
4 ~~or more frequent reporting to the Commission to document that~~
5 ~~the requirements of the plan are being properly implemented.~~

6 ~~(e) Upon petition by the telecommunications carrier or any~~
7 ~~other person or upon its own motion, the Commission may rescind~~
8 ~~its approval of an alternative form of regulation if, after~~
9 ~~notice and hearing, it finds that the conditions set forth in~~
10 ~~subsection (b) of this Section can no longer be satisfied. Any~~
11 ~~person may file a complaint alleging that the rates charged by~~
12 ~~a telecommunications carrier under an alternative form of~~
13 ~~regulation are unfair, unjust, unreasonable, unduly~~
14 ~~discriminatory, or are otherwise not consistent with the~~
15 ~~requirements of this Article; provided, that the complainant~~
16 ~~shall bear the burden of proving the allegations in the~~
17 ~~complaint.~~

18 ~~(f) Nothing in this Section shall be construed to authorize~~
19 ~~the Commission to render Sections 9-241, 9-250, and 13-505.2~~
20 ~~inapplicable to noncompetitive services.~~

21 (Source: P.A. 87-856.)

22 (220 ILCS 5/13-509) (from Ch. 111 2/3, par. 13-509)

23 (Section scheduled to be repealed on July 1, 2005)

24 Sec. 13-509. Agreements for provisions of competitive
25 telecommunications services differing from tariffs. A
26 telecommunications carrier may negotiate with customers or
27 prospective customers to provide competitive
28 telecommunications service, and in so doing, may offer or agree
29 to provide such service ~~on such terms and for such rates or~~
30 ~~charges as are reasonable,~~ without regard to any tariffs it may
31 have filed with the Commission with respect to such services.
32 Within 30 days after executing any such agreement, the
33 telecommunications carrier shall submit to the Commission

1 written notice of a list of any such agreements (which list may
2 be filed electronically). The notice shall identify the general
3 nature of all such agreements, the parties to each agreement,
4 and a general description of differences between each agreement
5 and the related tariff. A copy of each such agreement ~~and any~~
6 ~~cost support required to be filed with the agreement by some~~
7 ~~other Section of this Act~~ shall be provided to the Commission
8 within 10 business days after a request for review of the
9 agreement is made by the Commission or is made to the
10 Commission by another telecommunications carrier. Upon
11 submitting notice to the Commission of any such agreement, the
12 telecommunications carrier shall thereafter provide service
13 according to the terms thereof, ~~unless the Commission finds,~~
14 ~~after notice and hearing, that the continued provision of~~
15 ~~service pursuant to such agreement would substantially and~~
16 ~~adversely affect the financial integrity of the~~
17 ~~telecommunications carrier or would violate any other~~
18 ~~provision of this Act.~~ This Section does not apply to the
19 provision of competitive telecommunications services offered
20 or provided to business end users by a telecommunications
21 carrier that does not file tariffs for such business services
22 pursuant to Section 13-501.

23 Any agreement or notice entered into or submitted pursuant
24 to the provisions of this Section may, in the Commission's
25 discretion, be accorded proprietary treatment.

26 (Source: P.A. 92-22, eff. 6-30-01; 93-245, eff. 7-22-03.)

27 (220 ILCS 5/13-514)

28 (Section scheduled to be repealed on July 1, 2005)

29 Sec. 13-514. Prohibited Actions of Telecommunications
30 Carriers. A telecommunications carrier shall not knowingly
31 impede the development of competition in any
32 telecommunications service market. The following prohibited
33 actions are considered per se impediments to the development of

1 competition; however, the Commission is not limited in any
2 manner to these enumerated impediments and may consider other
3 actions which impede competition to be prohibited:

4 (1) unreasonably refusing or delaying interconnections or
5 collocation or providing inferior connections to another
6 telecommunications carrier;

7 (2) unreasonably impairing the speed, quality, or
8 efficiency of services used by another telecommunications
9 carrier;

10 (3) unreasonably denying a request of another provider for
11 information regarding the technical design and features,
12 geographic coverage, information necessary for the design of
13 equipment, and traffic capabilities of the local exchange
14 network except for proprietary information unless such
15 information is subject to a proprietary agreement or protective
16 order;

17 (4) unreasonably delaying access in connecting another
18 telecommunications carrier to the local exchange network whose
19 product or service requires novel or specialized access
20 requirements;

21 (5) unreasonably refusing or delaying access by any person
22 to another telecommunications carrier;

23 (6) unreasonably acting or failing to act in a manner that
24 has a substantial adverse effect on the ability of another
25 telecommunications carrier to provide service to its
26 customers;

27 (7) unreasonably failing to offer services to customers in
28 a local exchange, where a telecommunications carrier is
29 certificated to provide service and has entered into an
30 interconnection agreement for the provision of local exchange
31 telecommunications services, with the intent to delay or impede
32 the ability of the incumbent local exchange telecommunications
33 carrier to provide inter-LATA telecommunications services;

34 (8) violating the terms of or unreasonably delaying

1 implementation of an interconnection agreement entered into
2 pursuant to Section 252 of the federal Telecommunications Act
3 of 1996 in a manner that unreasonably delays, increases the
4 cost, or impedes the availability of telecommunications
5 services to consumers;

6 (9) unreasonably refusing or delaying access to or
7 provision of operation support systems to another
8 telecommunications carrier or providing inferior operation
9 support systems to another telecommunications carrier;

10 (10) unreasonably failing to offer network elements that
11 ~~the Commission or~~ the Federal Communications Commission has
12 determined must be offered on an unbundled basis to another
13 telecommunications carrier in a manner consistent with the
14 ~~Commission's or~~ Federal Communications Commission's orders or
15 rules requiring such offerings;

16 (11) violating the obligations of Section 13-801; and

17 (12) violating an order of the Commission regarding matters
18 between telecommunications carriers.

19 (Source: P.A. 92-22, eff. 6-30-01.)

20 (220 ILCS 5/13-515)

21 (Section scheduled to be repealed on July 1, 2005)

22 Sec. 13-515. Enforcement.

23 (a) The following expedited procedures shall be used to
24 enforce the provisions of Section 13-514 of this Act. However,
25 the Commission, the complainant, and the respondent may
26 mutually agree to adjust the procedures established in this
27 Section.

28 (b) (Blank).

29 (c) No complaint may be filed under this Section until the
30 complainant has first notified the respondent of the alleged
31 violation and offered the respondent 5 business days ~~48 hours~~
32 to correct the situation. Provision of notice and the
33 opportunity to correct the situation creates a rebuttable

1 presumption of knowledge under Section 13-514. After the filing
2 of a complaint under this Section, the parties may agree to
3 follow the mediation process under Section 10-101.1 of this
4 Act. The time periods specified in subdivision (d) (7) of this
5 Section shall be tolled during the time spent in mediation
6 under Section 10-101.1.

7 (d) A telecommunications carrier may file a complaint with
8 the Commission alleging a violation of Section 13-514 in
9 accordance with this subsection:

10 (1) The complaint shall be filed with the Chief Clerk
11 of the Commission and shall be served in hand upon the
12 respondent, the executive director, and the general
13 counsel of the Commission at the time of the filing.

14 (2) A complaint filed under this subsection shall
15 include a statement that the requirements of subsection (c)
16 have been fulfilled and that the respondent did not correct
17 the situation as requested.

18 (3) Reasonable discovery specific to the issue of the
19 complaint may commence upon filing of the complaint.
20 Requests for discovery must be served in hand and responses
21 to discovery must be provided in hand to the requester
22 within 14 days after a request for discovery is made.

23 (4) An answer and any other responsive pleading to the
24 complaint shall be filed with the Commission and served in
25 hand at the same time upon the complainant, the executive
26 director, and the general counsel of the Commission within
27 7 days after the date on which the complaint is filed.

28 (5) If the answer or responsive pleading raises the
29 issue that the complaint violates subsection (i) of this
30 Section, the complainant may file a reply to such
31 allegation within 3 days after actual service of such
32 answer or responsive pleading. Within 4 days after the time
33 for filing a reply has expired, the hearing officer or
34 arbitrator shall either issue a written decision

1 dismissing the complaint as frivolous in violation of
2 subsection (i) of this Section including the reasons for
3 such disposition or shall issue an order directing that the
4 complaint shall proceed.

5 (6) A pre-hearing conference shall be held within 14
6 days after the date on which the complaint is filed.

7 (7) The hearing shall commence within 30 days of the
8 date on which the complaint is filed. The hearing may be
9 conducted by a hearing examiner or by an arbitrator.
10 Parties and the Commission staff shall be entitled to
11 present evidence and legal argument in oral or written form
12 as deemed appropriate by the hearing examiner or
13 arbitrator. The hearing examiner or arbitrator shall issue
14 a written decision within 60 days after the date on which
15 the complaint is filed. The decision shall include reasons
16 for the disposition of the complaint and, if a violation of
17 Section 13-514 is found, directions and a deadline for
18 correction of the violation.

19 (8) Any party may file a petition requesting the
20 Commission to review the decision of the hearing examiner
21 or arbitrator within 5 days of such decision. Any party may
22 file a response to a petition for review within 3 business
23 days after actual service of the petition. After the time
24 for filing of the petition for review, but no later than 15
25 days after the decision of the hearing examiner or
26 arbitrator, the Commission shall decide to adopt the
27 decision of the hearing examiner or arbitrator or shall
28 issue its own final order.

29 (e) If the alleged violation has a substantial adverse
30 effect on the ability of the complainant to provide service to
31 customers, the complainant may include in its complaint a
32 request for an order for emergency relief. The Commission,
33 acting through its designated hearing examiner or arbitrator,
34 shall act upon such a request within 2 business days of the

1 filing of the complaint. An order for emergency relief may be
2 granted, without an evidentiary hearing, upon a verified
3 factual showing that the party seeking relief will likely
4 succeed on the merits, that the party will suffer irreparable
5 harm in its ability to serve customers if emergency relief is
6 not granted, and that the order is in the public interest. An
7 order for emergency relief shall include a finding that the
8 requirements of this subsection have been fulfilled and shall
9 specify the directives that must be fulfilled by the respondent
10 and deadlines for meeting those directives. The decision of the
11 hearing examiner or arbitrator to grant or deny emergency
12 relief shall be considered an order of the Commission unless
13 the Commission enters its own order within 2 calendar days of
14 the decision of the hearing examiner or arbitrator. The order
15 for emergency relief may require the responding party to act or
16 refrain from acting so as to protect the provision of
17 competitive service offerings to customers. Any action
18 required by an emergency relief order must be technically
19 feasible and economically reasonable and the respondent must be
20 given a reasonable period of time to comply with the order.

21 (f) The Commission is authorized to obtain outside
22 resources including, but not limited to, arbitrators and
23 consultants for the purposes of the hearings authorized by this
24 Section. Any arbitrator or consultant obtained by the
25 Commission shall be approved by both parties to the hearing.
26 The cost of such outside resources including, but not limited
27 to, arbitrators and consultants shall be borne by the parties.
28 The Commission shall review the bill for reasonableness and
29 assess the parties for reasonable costs dividing the costs
30 according to the resolution of the complaint brought under this
31 Section. Such costs shall be paid by the parties directly to
32 the arbitrators, consultants, and other providers of outside
33 resources within 60 days after receiving notice of the
34 assessments from the Commission. Interest at the statutory rate

1 shall accrue after expiration of the 60-day period. The
2 Commission, arbitrators, consultants, or other providers of
3 outside resources may apply to a court of competent
4 jurisdiction for an order requiring payment.

5 (g) The Commission shall assess the parties under this
6 subsection for all of the Commission's costs of investigation
7 and conduct of the proceedings brought under this Section
8 including, but not limited to, the prorated salaries of staff,
9 attorneys, hearing examiners, and support personnel and
10 including any travel and per diem, directly attributable to the
11 complaint brought pursuant to this Section, but excluding those
12 costs provided for in subsection (f), dividing the costs
13 according to the resolution of the complaint brought under this
14 Section. All assessments made under this subsection shall be
15 paid into the Public Utility Fund within 60 days after
16 receiving notice of the assessments from the Commission.
17 Interest at the statutory rate shall accrue after the
18 expiration of the 60 day period. The Commission is authorized
19 to apply to a court of competent jurisdiction for an order
20 requiring payment.

21 (h) If the Commission determines that there is an imminent
22 threat to competition or to the public interest, the Commission
23 may, notwithstanding any other provision of this Act, seek
24 temporary, preliminary, or permanent injunctive relief from a
25 court of competent jurisdiction either prior to or after the
26 hearing.

27 (i) A party shall not bring or defend a proceeding brought
28 under this Section or assert or controvert an issue in a
29 proceeding brought under this Section, unless there is a
30 non-frivolous basis for doing so. By presenting a pleading,
31 written motion, or other paper in complaint or defense of the
32 actions or inaction of a party under this Section, a party is
33 certifying to the Commission that to the best of that party's
34 knowledge, information, and belief, formed after a reasonable

1 inquiry of the subject matter of the complaint or defense, that
2 the complaint or defense is well grounded in law and fact, and
3 under the circumstances:

4 (1) it is not being presented to harass the other
5 party, cause unnecessary delay in the provision of
6 competitive telecommunications services to consumers, or
7 create needless increases in the cost of litigation; and

8 (2) the allegations and other factual contentions have
9 evidentiary support or, if specifically so identified, are
10 likely to have evidentiary support after reasonable
11 opportunity for further investigation or discovery as
12 defined herein.

13 (j) If, after notice and a reasonable opportunity to
14 respond, the Commission determines that subsection (i) has been
15 violated, the Commission shall impose appropriate sanctions
16 upon the party or parties that have violated subsection (i) or
17 are responsible for the violation. The sanctions shall be not
18 more than \$30,000, plus the amount of expenses accrued by the
19 Commission for conducting the hearing. Payment of sanctions
20 imposed under this subsection shall be made to the Common
21 School Fund within 30 days of imposition of such sanctions.

22 (k) An appeal of a Commission Order made pursuant to this
23 Section shall not effectuate a stay of the Order unless a court
24 of competent jurisdiction specifically finds that the party
25 seeking the stay will likely succeed on the merits, that the
26 party will suffer irreparable harm without the stay, and that
27 the stay is in the public interest.

28 (Source: P.A. 92-22, eff. 6-30-01.)

29 (220 ILCS 5/13-517)

30 (Section scheduled to be repealed on July 1, 2005)

31 Sec. 13-517. Provision of advanced telecommunications
32 services.

33 (a) Every Incumbent Local Exchange Carrier ~~Local Exchange~~

1 ~~Carrier (telecommunications carrier that offers or provides a~~
2 ~~noncompetitive telecommunications service)~~ shall offer or
3 provide advanced telecommunications services to not less than
4 80% of its customers by January 1, 2005. An Incumbent Local
5 Exchange Carrier may satisfy this requirement through services
6 offered or provided by an affiliate.

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

21 (1) is necessary:

22 (A) to avoid a significant adverse economic impact
23 on users of telecommunications services generally;

24 (B) to avoid imposing a requirement that is unduly
25 economically burdensome;

26 (C) to avoid imposing a requirement that is
27 technically infeasible; or

28 (D) to avoid imposing a requirement that is
29 otherwise impractical to implement in exchanges with
30 low population density; and

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

33 The Commission shall act upon any petition filed under this
34 subsection within 180 days after receiving such petition. The

1 Commission may by rule establish standards for granting any
2 waiver of the requirements of this Section. The Commission may,
3 upon complaint or on its own motion, hold a hearing to
4 reconsider its grant of a waiver in whole or in part. In the
5 event that the Commission, following hearing, determines that
6 the affected ILEC no longer meets the requirements of item (2)
7 of this subsection, the Commission shall by order rescind such
8 waiver, in whole or in part. In the event and to the degree the
9 Commission rescinds such waiver, the Commission shall
10 establish an implementation schedule for compliance with the
11 requirements of this Section.

12 (c) As used in this Section, "advanced telecommunications
13 services" means services capable of supporting, in at least one
14 direction, a speed in excess of 200 kilobits per second (kbps)
15 to the network demarcation point at the subscriber's premises.

16 As used in this Section, "affiliate" means a person that is
17 (directly or indirectly) owned or controlled by, or is under
18 common ownership or control with, another person. As used in
19 this Section, "person" includes an individual, partnership,
20 association, joint stock company, trust, corporation, or
21 limited liability company.

22 (Source: P.A. 92-22, eff. 6-30-01.)

23 (220 ILCS 5/13-518.1 new)

24 Sec. 13-518.1. Retail service packages. Notwithstanding
25 any other provisions of this Act:

26 (1) A telecommunications carrier may offer retail
27 telecommunications services, both competitive and
28 noncompetitive, and non-regulated services or products, in
29 a package to residential and business end users so long as
30 the total price of such service package exceeds the
31 long-run service incremental cost of the
32 telecommunications services included in the service
33 package. The telecommunications services included in a

1 service package may be offered under the rates, terms and
2 conditions of the service package so long as each of the
3 noncompetitive or price-capped competitive
4 telecommunications services contained within such service
5 package is separately tariffed and offered to end users on
6 a stand-alone basis. To the extent the service package
7 includes non-regulated services or products, the
8 Commission shall have no jurisdiction over the prices,
9 terms or conditions for the offering of such non-regulated
10 services or products nor shall such non-regulated services
11 or products be required to be included in the service
12 package tariff. For purposes of this Section
13 "non-regulated services or products" means anything that
14 is neither a competitive telecommunications services nor a
15 noncompetitive telecommunications services as defined in
16 this Article.

17 (2) Any retail service package that contains both
18 competitive retail telecommunications services and
19 noncompetitive retail telecommunications services shall be
20 classified as a retail competitive telecommunications
21 service, without further Commission review, so long as each
22 noncompetitive telecommunications service within the
23 package is separately tariffed and offered to end users on
24 a stand-alone basis.

25 (220 ILCS 5/13-701) (from Ch. 111 2/3, par. 13-701)

26 (Section scheduled to be repealed on July 1, 2005)

27 Sec. 13-701. Telephone cooperatives; supervision by
28 Commission; annual financial report.

29 (a) Notwithstanding any other provision of this Act to the
30 contrary, the Commission has no power to supervise or control
31 any telephone cooperative as respects assessment schedules or
32 local service rates made or charged by such a cooperative on a
33 nondiscriminatory basis. In addition, the Commission has no

1 power to inquire into, or require the submission of, the terms,
2 conditions or agreements by or under which telephone
3 cooperatives are financed. A telephone cooperative shall file
4 with the Commission either a copy of the annual financial
5 report required by the Rural Electrification Administration,
6 or the annual financial report required of other public
7 utilities.

8 (b) Sections 13-712 and 13-713 of this Article do not apply
9 to telephone cooperatives.

10 (Source: P.A. 84-1063.)

11 (220 ILCS 5/13-712)

12 (Section scheduled to be repealed on July 1, 2005)

13 Sec. 13-712. Basic local exchange service quality;
14 customer credits.

15 (a) It is the intent of the General Assembly that every
16 telecommunications carrier meet minimum service quality
17 standards in providing basic local exchange service on a
18 non-discriminatory basis to all classes of customers.

19 (b) Definitions:

20 (1) "Alternative telephone service" means, except
21 where technically impracticable, a wireless telephone
22 capable of making local calls, and may also include, but is
23 not limited to, call forwarding, voice mail, or paging
24 services.

25 (2) "Basic local exchange service" means residential
26 and business lines used for local exchange
27 telecommunications service as defined in Section 13-204 of
28 this Act, excluding:

29 (A) services that employ advanced
30 telecommunications capability as defined in Section
31 706(c)(1) of the federal Telecommunications Act of
32 1996;

33 (B) vertical services;

1 (C) company official lines; and

2 (D) records work only.

3 (3) "Link Up" refers to the Link Up Assistance program
4 defined and established at 47 C.F.R. Section 54.411 et seq.
5 as amended.

6 (c) The Commission shall promulgate service quality rules
7 for basic local exchange service, which may include fines,
8 penalties, customer credits, and other enforcement mechanisms
9 and which shall apply equally to all telecommunications
10 carriers providing basic local exchange service. Each service
11 quality standard in such rules shall be reasonable, and any
12 fines, penalties, customer credits and enforcement mechanisms
13 shall be proportionate to the violation of that service quality
14 standard. In developing ~~such service quality~~ rules, for
15 imposing such fines, penalties, customer credits and other
16 enforcement mechanisms, the Commission shall consider, at a
17 minimum, the carrier's gross annual intrastate revenue; the
18 frequency, duration, and recurrence of the violation; and the
19 relative harm caused to the affected customer or other users of
20 the network. In imposing fines, the Commission shall take into
21 account compensation or credits paid by the telecommunications
22 carrier to its customers pursuant to this Section in
23 compensation for the violation found pursuant to this Section.
24 ~~These rules shall become effective within one year after the~~
25 ~~effective date of this amendatory Act of the 92nd General~~
26 ~~Assembly.~~

27 (d) The rules shall, at a minimum, require each
28 telecommunications carrier to do all of the following:

29 (1) Install basic local exchange service within 5
30 business days after receipt of an order from the customer
31 unless the customer requests an installation date that is
32 beyond 5 business days after placing the order for basic
33 service and to inform the customer of its duty to install
34 service within this timeframe. If installation of service

1 is requested on or by a date more than 5 business days in
2 the future, the telecommunications carrier shall install
3 service by the date requested. A telecommunications
4 carrier offering basic local exchange service utilizing
5 the network or network elements of another carrier shall
6 install new lines for basic local exchange service within 3
7 business days after provisioning of the line or lines by
8 the carrier whose network or network elements are being
9 utilized is complete. This subdivision (d)(1) does not
10 apply to the migration of a customer between
11 telecommunications carriers, so long as the customer
12 maintains dial tone.

13 (2) Restore basic local exchange service for a customer
14 within 24 hours of receiving notice that a customer is out
15 of service. This provision applies to service disruptions
16 that occur when a customer switches existing basic local
17 exchange service from one carrier to another.

18 (3) Keep all repair and installation appointments for
19 basic local exchange service, when a customer premises
20 visit requires a customer to be present.

21 (4) Inform a customer when a repair or installation
22 appointment requires the customer to be present.

23 (e) The rules shall include provisions for customers to be
24 credited by the telecommunications carrier for violations of
25 basic local exchange service quality standards as described in
26 subsection (d). The credits shall be applied on the statement
27 issued to the customer for the next monthly billing cycle
28 following the violation or following the discovery of the
29 violation. The performance levels established in subsection
30 (c) are solely for the purposes of consumer credits and shall
31 not be used as performance levels for the purposes of assessing
32 penalties under Section 13-305. At a minimum, the rules shall
33 include the following:

34 (1) If a carrier fails to repair an out-of-service

1 condition for basic local exchange service within 24 hours,
2 the carrier shall provide a credit to the customer. If the
3 service disruption is for 48 hours or less, the credit must
4 be equal to a pro-rata portion of the monthly recurring
5 charges for all local services disrupted. If the service
6 disruption is for more than 48 hours, but not more than 72
7 hours, the credit must be equal to at least 33% of one
8 month's recurring charges for all local services
9 disrupted. If the service disruption is for more than 72
10 hours, but not more than 96 hours, the credit must be equal
11 to at least 67% of one month's recurring charges for all
12 local services disrupted. If the service disruption is for
13 more than 96 hours, but not more than 120 hours, the credit
14 must be equal to one month's recurring charges for all
15 local services disrupted. For each day or portion thereof
16 that the service disruption continues beyond the initial
17 120-hour period, the carrier shall also provide either
18 alternative telephone service or an additional credit of
19 \$20 per day, at the customers option.

20 (2) If a carrier fails to install basic local exchange
21 service as required under subdivision (d)(1), the carrier
22 shall waive 50% of any installation charges, or in the
23 absence of an installation charge or where installation is
24 pursuant to the Link Up program, the carrier shall provide
25 a credit of \$25. If a carrier fails to install service
26 within 10 business days after the service application is
27 placed, or fails to install service within 5 business days
28 after the customer's requested installation date, if the
29 requested date was more than 5 business days after the date
30 of the order, the carrier shall waive 100% of the
31 installation charge, or in the absence of an installation
32 charge or where installation is provided pursuant to the
33 Link Up program, the carrier shall provide a credit of \$50.
34 For each day that the failure to install service continues

1 beyond the initial 10 business days, or beyond 5 business
2 days after the customer's requested installation date, if
3 the requested date was more than 5 business days after the
4 date of the order, the carrier shall also provide either
5 alternative telephone service or an additional credit of
6 \$20 per day, at the customer's option until service is
7 installed.

8 (3) If a carrier fails to keep a scheduled repair or
9 installation appointment when a customer premises visit
10 requires a customer to be present, the carrier shall credit
11 the customer \$50 per missed appointment. A credit required
12 by this subsection does not apply when the carrier provides
13 the customer with 24-hour notice of its inability to keep
14 the appointment.

15 (4) If the violation of a basic local exchange service
16 quality standard is caused by a carrier other than the
17 carrier providing retail service to the customer, the
18 carrier providing retail service to the customer shall
19 credit the customer as provided in this Section. The
20 carrier causing the violation shall reimburse the carrier
21 providing retail service the amount credited the customer.
22 When applicable, an interconnection agreement shall govern
23 compensation between the carrier causing the violation, in
24 whole or in part, and the retail carrier providing the
25 credit to the customer.

26 (5) When alternative telephone service is appropriate,
27 the customer may select one of the alternative telephone
28 services offered by the carrier. The alternative telephone
29 service shall be provided at no cost to the customer for
30 the provision of local service.

31 (6) Credits required by this subsection do not apply if
32 the violation of a service quality standard:

33 (i) occurs as a result of a negligent or willful
34 act on the part of the customer;

1 (ii) occurs as a result of a malfunction of
2 customer-owned telephone equipment or inside wiring;

3 (iii) occurs as a result of, or is extended by, an
4 emergency situation as defined in Commission rules;

5 (iv) is extended by the carrier's inability to gain
6 access to the customer's premises due to the customer
7 missing an appointment, provided that the violation is
8 not further extended by the carrier;

9 (v) occurs as a result of a customer request to
10 change the scheduled appointment, provided that the
11 violation is not further extended by the carrier;

12 (vi) occurs as a result of a carrier's right to
13 refuse service to a customer as provided in Commission
14 rules; or

15 (vii) occurs as a result of a lack of facilities
16 where a customer requests service at a geographically
17 remote location, a customer requests service in a
18 geographic area where the carrier is not currently
19 offering service, or there are insufficient facilities
20 to meet the customer's request for service, subject to
21 a carrier's obligation for reasonable facilities
22 planning.

23 (7) The provisions of this subsection are cumulative
24 and shall not in any way diminish or replace other civil or
25 administrative remedies available to a customer or a class
26 of customers.

27 (e-5) If a telecommunications carrier that is subject to an
28 alternative form of regulation plan on the effective date of
29 this amendatory Act of the 94th General Assembly fails to
30 comply with the requirements set forth in paragraphs (1), (2),
31 and (3) of subsection (e) regarding basic local exchange
32 service provided to residential end users, the credits to be
33 paid or charges to be waived shall be calculated as set forth
34 in subsection (e), except that any such credits or charges to

1 be waived shall be 10% higher than those set forth in those
2 paragraphs. This subsection shall take effect 6 months after
3 the effective date of this amendatory Act of the 94th General
4 Assembly.

5 (e-10) Notwithstanding any other provision in this Section
6 or Article, a telecommunications carrier that is subject to an
7 alternative form of regulation plan on the date of the
8 effective date of this amendatory Act of the 94th General
9 Assembly shall be subject to the following conditions if it
10 elects to be subject to a dial tone protection plan pursuant to
11 Section 13-506.1 of this Article:

12 (1) Such prior alternative regulation
13 telecommunications carrier shall continue to be subject to
14 the retail service quality measures, exclusions,
15 calculations and standards set forth in the Commission's
16 orders in the proceeding in which such plan was adopted,
17 but such telecommunications carrier shall not be subject to
18 any retail service quality-related rate reductions or
19 penalties that may have applied under such plan or the
20 Commission's orders;

21 (2) To the extent the measures adopted under such an
22 alternative form of regulation plan are also contained in
23 the rules promulgated by the Commission pursuant to this
24 Section, the retail service quality measures, exclusions,
25 calculations and standards adopted pursuant to the
26 Commission's order in the proceeding in which such prior
27 alternative regulation plan was adopted shall apply rather
28 than such rules, except to the extent the service quality
29 standard provided in the rules is more stringent;

30 (3) Such telecommunications carrier shall also be
31 subject to any measures that are contained in the rules
32 promulgated by the Commission pursuant to this Section that
33 are not measures that are included in such
34 telecommunications carrier's alternative form of

1 regulation plan;

2 (4) The civil penalties applicable to any violations of
3 items (1) through (3) of this subsection are set forth in
4 Section 13-305; and

5 (5) Such telecommunications carrier shall report its
6 performance measurement results pursuant to items (1)
7 through (3) of this subsection to the Commission consistent
8 with the requirements of subsection (f) of this Section.

9 (f) The rules shall require each telecommunications
10 carrier to provide to the Commission, on a quarterly basis and
11 in a form suitable for posting on the Commission's website, a
12 public report that includes performance data for basic local
13 exchange service quality of service. The performance data shall
14 be disaggregated for each geographic area and each customer
15 class of the State for which the telecommunications carrier
16 internally monitored performance data as of a date 120 days
17 preceding the effective date of this amendatory Act of the 92nd
18 General Assembly. The report shall include, at a minimum,
19 performance data on basic local exchange service
20 installations, lines out of service for more than 24 hours,
21 carrier response to customer calls, trouble reports, and missed
22 repair and installation commitments.

23 (g) The Commission shall establish and implement carrier to
24 carrier wholesale service quality rules and establish remedies
25 to ensure enforcement of the rules. These rules shall become
26 effective within one year after the effective date of this
27 amendatory Act of the 94th General Assembly. The wholesale
28 service quality rules and standards shall be reasonable and any
29 remedies shall be proportionate to the actual damages, if any,
30 to the other telecommunications carrier. Any
31 carrier-to-carrier rules developed by the Commission pursuant
32 to this subsection shall: (1) not exceed the duties imposed on
33 telecommunications carriers pursuant to Section 251 of the
34 federal Telecommunications Act of 1996 and regulations

1 promulgated thereunder or any amendments and successors
2 thereof; (2) only relate to basic local exchange service to end
3 users and shall specify the terms and conditions regarding the
4 transfer of customer information, telephone numbers, and
5 required unbundled network elements when a basic local exchange
6 end user customer transfers from one telecommunications
7 carrier to another telecommunications carrier; (3) apply
8 equally to any telecommunications carrier providing basic
9 local exchange service; (4) include no more than 12 performance
10 measures; and (5) be the only wholesale service quality rules
11 that apply at the expiration of any wholesale performance plan
12 previously adopted by the Commission for any
13 telecommunications carrier prior to the amendment of this
14 subsection or on July 1, 2007, whichever date is earlier. At a
15 minimum, the rules shall include measures for unbundled loop
16 return, return of customer service records, loss
17 notifications, and number portability with remedies of \$15 for
18 failure to meet the requirements within 24 hours and with
19 additional payments of \$5 per day up to a maximum of \$50 per
20 occurrence. Any telecommunications carrier that is not subject
21 to a Commission-approved remedy plan as of the effective date
22 of this amendatory Act of the 94th General Assembly shall have
23 6 months after the effective date of the rules promulgated
24 pursuant to this subsection under this amendatory Act of the
25 94th General Assembly to comply with the requirements of this
26 subsection, to the extent that the rules promulgated pursuant
27 to this amendatory Act contain measures to which such carrier
28 was not subject as of the effective date of this amendatory
29 Act. Nothing in this Section is intended to limit the ability
30 of a telecommunications carrier to seek inclusion of
31 performance measures and remedies in the context of arbitration
32 before the Commission pursuant to Section 252 of the federal
33 Telecommunications Act of 1996. This subsection shall not apply
34 to certain rural telephone companies subject to 47 U.S.C.

1 251(f).

2 (Source: P.A. 92-22, eff. 6-30-01.)

3 (220 ILCS 5/13-801) (from Ch. 111 2/3, par. 13-801)

4 (Section scheduled to be repealed on July 1, 2005)

5 Sec. 13-801. Incumbent local exchange carrier obligations.

6 (a) This Section provides ~~additional~~ State requirements
7 for incumbent local exchange carriers that the General Assembly
8 believes are consistent with and not preempted by contemplated
9 by, but not inconsistent with, Section 261(e) of the federal
10 Telecommunications Act of 1996, and regulations promulgated
11 thereunder or any amendments or successors thereof. not
12 preempted by orders of the Federal Communications Commission. A
13 telecommunications carrier not subject to regulation under an
14 alternative regulation plan pursuant to Section 13-506.1 of
15 this Act shall not be subject to the provisions of this
16 Section, to the extent that this Section imposes requirements
17 or obligations upon the telecommunications carrier that exceed
18 or are more stringent than those obligations imposed by Section
19 251 of the federal Telecommunications Act of 1996 and
20 regulations promulgated thereunder.

21 Nothing in this Article or this Section shall be construed
22 to require any incumbent local exchange carrier to provide any
23 other telecommunications carrier with interconnection,
24 collocation, access to any network element, whether unbundled
25 or combined with other network elements, or resale where the
26 Federal Communications Commission does not require such
27 interconnection, collocation, access to any network element,
28 or resale to be provided pursuant to Section 251 of the federal
29 Telecommunications Act of 1996 or any amendment or successor
30 thereof.

31 An incumbent local exchange carrier shall provide a
32 requesting telecommunications carrier with interconnection,
33 collocation, network elements, and access to operations

1 support systems on just, reasonable, and nondiscriminatory
2 rates, terms, and conditions to enable the provision of any and
3 all existing and new telecommunications services within the
4 LATA, including, but not limited to, local exchange and
5 exchange access. ~~The Commission shall require the incumbent
6 local exchange carrier to provide interconnection,
7 collocation, and network elements in any manner technically
8 feasible to the fullest extent possible to implement the
9 maximum development of competitive telecommunications services
10 offerings. As used in this Section, to the extent that
11 interconnection, collocation, or network elements have been
12 deployed for or by the incumbent local exchange carrier or one
13 of its wireline local exchange affiliates in any jurisdiction,
14 it shall be presumed that such is technically feasible in
15 Illinois.~~

16 (b) Interconnection. ~~(1)~~ An incumbent local exchange
17 carrier shall provide for the facilities and equipment of any
18 requesting telecommunications carrier's interconnection with
19 the incumbent local exchange carrier's network on just,
20 reasonable, and nondiscriminatory rates, terms, and
21 conditions:

22 (1) ~~(A)~~ for the transmission and routing of local
23 exchange, and exchange access telecommunications services;

24 (2) ~~(B)~~ at any technically feasible point within the
25 incumbent local exchange carrier's network; however, the
26 incumbent local exchange carrier may not require the
27 requesting carrier to interconnect at more than one
28 technically feasible point within a LATA; and

29 (3) ~~(C)~~ that is at least equal in quality and
30 functionality to that provided by the incumbent local
31 exchange carrier to itself or to any subsidiary, affiliate,
32 or any other party to which the incumbent local exchange
33 carrier provides interconnection.

34 ~~(2) An incumbent local exchange carrier shall make~~

~~available to any requesting telecommunications carrier, to the extent technically feasible, those services, facilities, or interconnection agreements or arrangements that the incumbent local exchange carrier or any of its incumbent local exchange subsidiaries or affiliates offers in another state under the terms and conditions, but not the stated rates, negotiated pursuant to Section 252 of the federal Telecommunications Act of 1996. Rates shall be established in accordance with the requirements of subsection (g) of this Section. An incumbent local exchange carrier shall also make available to any requesting telecommunications carrier, to the extent technically feasible, and subject to the unbundling provisions of Section 251(d)(2) of the federal Telecommunications Act of 1996, those unbundled network element or interconnection agreements or arrangements that a local exchange carrier affiliate of the incumbent local exchange carrier obtains in another state from the incumbent local exchange carrier in that state, under the terms and conditions, but not the stated rates, obtained through negotiation, or through an arbitration initiated by the affiliate, pursuant to Section 252 of the federal Telecommunications Act of 1996. Rates shall be established in accordance with the requirements of subsection (g) of this Section.~~

(c) Collocation. An incumbent local exchange carrier shall provide for physical or virtual collocation of any type of equipment necessary for interconnection or access to network elements at the premises of the incumbent local exchange carrier on just, reasonable, and nondiscriminatory rates, terms, and conditions. The equipment shall include, but is not limited to, optical transmission equipment, multiplexers, remote switching modules, and cross-connects between the facilities or equipment of other collocated carriers. The equipment shall also include microwave transmission facilities

1 on the exterior and interior of the incumbent local exchange
2 carrier's premises used for interconnection to, or for access
3 to network elements of, the incumbent local exchange carrier or
4 a collocated carrier, unless the incumbent local exchange
5 carrier demonstrates to the Commission that it is not practical
6 due to technical reasons or space limitations. An incumbent
7 local exchange carrier shall allow, and provide for, the most
8 reasonably direct and efficient cross-connects, that are
9 consistent with safety and network reliability standards,
10 between the facilities of collocated carriers. An incumbent
11 local exchange carrier shall also allow, and provide for, cross
12 connects between a noncollocated telecommunications carrier's
13 network elements platform, or a noncollocated
14 telecommunications carrier's transport facilities, and the
15 facilities of any collocated carrier, consistent with safety
16 and network reliability standards.

17 (d) Network elements. The incumbent local exchange carrier
18 shall provide to any requesting telecommunications carrier,
19 for the provision of an existing or a new telecommunications
20 service, nondiscriminatory access to network elements that are
21 required by the Federal Communications Commission to be made
22 available on an unbundled basis pursuant to Section 251(c)(3)
23 and 251(d)(2) of the federal Telecommunications Act of 1996 and
24 regulations promulgated thereunder or any amendments or
25 successors thereof, on an ~~any~~ unbundled ~~or bundled~~ basis, to
26 the extent that such network elements are required by the
27 Federal Communications Commission to be provided on an
28 unbundled basis pursuant to Section 251(c)(3) and 251(d)(2) of
29 that Act and regulations promulgated thereunder or any
30 amendments or successors thereof, as requested, at any
31 technically feasible point on just, reasonable, and
32 nondiscriminatory rates, terms, and conditions.

33 (1) An incumbent local exchange carrier shall provide
34 unbundled network elements in a manner that allows

1 requesting telecommunications carriers to combine those
2 network elements to provide a telecommunications service.

3 (2) An incumbent local exchange carrier shall not
4 separate any required network elements that are currently
5 combined with other required network elements, except at
6 the explicit direction of the requesting carrier.

7 (3) Upon request, an incumbent local exchange carrier
8 shall combine any sequence of required unbundled network
9 elements that it ordinarily combines for itself, ~~including~~
10 ~~but not limited to, unbundled network elements identified~~
11 ~~in The Draft of the Proposed Ameritech Illinois 271~~
12 ~~Amendment (I2A) found in Schedule SJA-4 attached to Exhibit~~
13 ~~3.1 filed by Illinois Bell Telephone Company on or about~~
14 ~~March 28, 2001 with the Illinois Commerce Commission under~~
15 ~~Illinois Commerce Commission Docket Number 00-0700. The~~
16 Commission shall determine those unbundled network
17 elements the incumbent local exchange carrier ordinarily
18 combines for itself if there is a dispute between the
19 incumbent local exchange carrier and the requesting
20 telecommunications carrier under this subdivision of this
21 Section of this Act.

22 The incumbent local exchange carrier shall be entitled
23 to recover from the requesting telecommunications carrier
24 any just and reasonable special construction costs
25 incurred in combining such unbundled network elements (i)
26 if such costs are not already included in the established
27 price of providing the network elements, (ii) if the
28 incumbent local exchange carrier charges such costs to its
29 retail telecommunications end users, and (iii) if fully
30 disclosed in advance to the requesting telecommunications
31 carrier. The Commission shall determine whether the
32 incumbent local exchange carrier is entitled to any special
33 construction costs if there is a dispute between the
34 incumbent local exchange carrier and the requesting

1 telecommunications carrier under this subdivision of this
2 Section of this Act.

3 (4) A telecommunications carrier may use a network
4 element ~~elements~~ or combination of platform consisting
5 ~~solely of combined network elements,~~ to the extent that
6 such network elements are required by the Federal
7 Communications Commission to be made available on an
8 unbundled basis pursuant to Section 251(c)(3) and
9 251(d)(2) of the federal Telecommunications Act of 1996 and
10 regulations promulgated thereunder or any amendments or
11 successors thereof, ~~of the incumbent local exchange~~
12 ~~carrier to provide end to end telecommunications service~~
13 for the provision of existing and new local exchange,
14 interexchange that includes local, local toll, and
15 intraLATA toll, and exchange access telecommunications
16 services within the LATA directly to its local exchange end
17 users or payphone service providers ~~without the requesting~~
18 ~~telecommunications carrier's provision or use of any other~~
19 ~~facilities or functionalities.~~

20 (5) The Commission may ~~shall~~ establish maximum time
21 periods for the incumbent local exchange carrier's
22 provision of unbundled network elements, subject to the
23 provisions of subsection (g) of Section 13-712 to the
24 extent applicable. The maximum time period shall be no
25 longer than the time period for the incumbent local
26 exchange carrier's provision of comparable retail
27 telecommunications services utilizing those network
28 elements. The Commission may establish a maximum time
29 period for a particular network element that is shorter
30 than for a comparable retail telecommunications service
31 offered by the incumbent local exchange carrier if a
32 requesting telecommunications carrier establishes that it
33 shall perform other functions or activities after receipt
34 of the particular network element to provide

1 telecommunications services to end users. The burden of
2 proof for establishing a maximum time period for a
3 particular network element that is shorter than for a
4 comparable retail telecommunications service offered by
5 the incumbent local exchange carrier shall be on the
6 requesting telecommunications carrier. Notwithstanding any
7 other provision of this Article, unless and until the
8 Commission establishes by rule or order a different
9 specific maximum time interval, the maximum time intervals
10 shall not exceed 5 business days for the provision of
11 unbundled loops, both digital and analog, 10 business days
12 for the conditioning of unbundled loops or for existing
13 combinations of network elements for an end user that has
14 existing local exchange telecommunications service, and
15 one business day for the provision of the high frequency
16 portion of the loop (line-sharing) for at least 95% of the
17 requests of each requesting telecommunications carrier for
18 each month.

19 In measuring the incumbent local exchange carrier's
20 actual performance, the Commission shall ensure that
21 occurrences beyond the control of the incumbent local
22 exchange carrier that adversely affect the incumbent local
23 exchange carrier's performance are excluded when
24 determining actual performance levels. Such occurrences
25 shall be determined by the Commission, but at a minimum
26 must include work stoppage or other labor actions and acts
27 of war. Exclusions shall also be made for performance that
28 is governed by agreements approved by the Commission and
29 containing timeframes for the same or similar measures or
30 for when a requesting telecommunications carrier requests
31 a longer time interval.

32 ~~(6) When a telecommunications carrier requests a~~
33 ~~network elements platform referred to in subdivision~~
34 ~~(d)(4) of this Section, without the need for field work~~

1 ~~outside of the central office, for an end user that has~~
2 ~~existing local exchange telecommunications service~~
3 ~~provided by an incumbent local exchange carrier, or by~~
4 ~~another telecommunications carrier through the incumbent~~
5 ~~local exchange carrier's network elements platform, unless~~
6 ~~otherwise agreed by the telecommunications carriers, the~~
7 ~~incumbent local exchange carrier shall provide the~~
8 ~~requesting telecommunications carrier with the requested~~
9 ~~network elements platform within 3 business days for at~~
10 ~~least 95% of the requests for each requesting~~
11 ~~telecommunications carrier for each month. A requesting~~
12 ~~telecommunications carrier may order the network elements~~
13 ~~platform as is for an end user that has such existing local~~
14 ~~exchange service without changing any of the features~~
15 ~~previously selected by the end user. The incumbent local~~
16 ~~exchange carrier shall provide the requested network~~
17 ~~elements platform without any disruption to the end user's~~
18 ~~services.~~

19 ~~Absent a contrary agreement between the~~
20 ~~telecommunications carriers entered into after the~~
21 ~~effective date of this amendatory Act of the 92nd General~~
22 ~~Assembly, as of 12:01 a.m. on the third business day after~~
23 ~~placing the order for a network elements platform, the~~
24 ~~requesting telecommunications carrier shall be the~~
25 ~~presubscribed primary local exchange carrier for that end~~
26 ~~user line and shall be entitled to receive, or to direct~~
27 ~~the disposition of, all revenues for all services utilizing~~
28 ~~the network elements in the platform, unless it is~~
29 ~~established that the end user of the existing local~~
30 ~~exchange service did not authorize the requesting~~
31 ~~telecommunications carrier to make the request.~~

32 (6) (c) Operations support systems. Subject to the
33 provisions of subsection (g) of Section 13-712 to the
34 extent applicable, the Commission may shall establish

1 minimum standards with just, reasonable, and
2 nondiscriminatory rates, terms, and conditions for the
3 preordering, ordering, provisioning, maintenance and
4 repair, and billing functions of the incumbent local
5 exchange carrier's operations support systems provided to
6 other telecommunications carriers.

7 (e) ~~(f)~~ Resale. An incumbent local exchange carrier shall
8 offer all retail telecommunications services, that the
9 incumbent local exchange carrier provides at retail to
10 subscribers who are not telecommunications carriers, within
11 the LATA, together with each applicable optional feature or
12 functionality, subject to resale at wholesale rates without
13 imposing any unreasonable or discriminatory conditions or
14 limitations. Wholesale rates shall be based on the retail rates
15 charged to end users for the telecommunications service
16 requested, excluding the portion thereof attributable to any
17 marketing, billing, collection, and other costs avoided by the
18 local exchange carrier. The Commission may determine under
19 Article IX of this Act that certain noncompetitive services,
20 together with each applicable optional feature or
21 functionality, that are offered to residence customers under
22 different rates, charges, terms, or conditions than to other
23 customers should not be subject to resale under the rates,
24 charges, terms, or conditions available only to residence
25 customers.

26 (f) ~~(g)~~ Cost based rates. Interconnection, collocation,
27 and network elements, and operations support systems to the
28 extent required by the Federal Communications Commission to be
29 made available pursuant to Section 251(c) of the federal
30 Telecommunications Act of 1996 and regulations promulgated
31 thereunder or any amendments or successors thereof, shall be
32 provided by the incumbent local exchange carrier to requesting
33 telecommunications carriers at cost based rates consistent
34 with Section 252 of such Act and regulations promulgated

1 thereunder or any amendments or successors thereof. The
2 immediate implementation and provisioning of interconnection,
3 collocation, network elements, and operations support systems
4 shall not be delayed due to any lack of determination by the
5 Commission as to the cost based rates. When cost based rates
6 have not been established, within 30 days after the filing of a
7 petition for the setting of interim rates, or after the
8 Commission's own motion, the Commission shall provide for
9 interim rates that shall remain in full force and effect until
10 the cost based rate determination is made, or the interim rate
11 is modified, by the Commission.

12 (g) ~~(h)~~ Rural exemption. This Section does not apply to
13 certain rural telephone companies as described in 47 U.S.C.
14 251(f).

15 ~~(i) Schedule of rates. A telecommunications carrier may~~
16 ~~request the incumbent local exchange carrier to provide a~~
17 ~~schedule of rates listing each of the rate elements of the~~
18 ~~incumbent local exchange carrier that pertains to a proposed~~
19 ~~order identified by the requesting telecommunications carrier~~
20 ~~for any of the matters covered in this Section. The incumbent~~
21 ~~local exchange carrier shall deliver the requested schedule of~~
22 ~~rates to the requesting telecommunications carrier within 2~~
23 ~~business days for 95% of the requests for each requesting~~
24 ~~carrier~~

25 (h) ~~(j)~~ Special access circuits. Nothing ~~Other than as~~
26 ~~provided in subdivision (d) (4) of this Section for the network~~
27 ~~elements platform described in that subdivision, nothing in~~
28 ~~this Section amendatory Act of the 92nd General Assembly is~~
29 intended to require or prohibit the substitution of switched or
30 special access or private line services by or with a
31 combination of network elements nor address the Illinois
32 Commerce Commission's jurisdiction or authority in this area.

33 (i) ~~(k)~~ The Commission shall determine any matters in
34 dispute between the incumbent local exchange carrier and the

1 requesting carrier pursuant to Section 13-515 of this Act.

2 (Source: P.A. 92-22, eff. 6-30-01.)

3 (220 ILCS 5/13-804 new)

4 Sec. 13-804. Access services.

5 (a) The rates of any telecommunications carrier providing
6 intrastate switched access service or intrastate dedicated
7 special access shall be deemed to be just and reasonable if
8 such rates were established pursuant to a Commission order or
9 if such rates are no higher than such carrier's interstate
10 rates for interstate switched access service or interstate
11 dedicated special access as found to be just and reasonable
12 under the orders and regulations of the Federal Communications
13 Commission. For purposes of this Section, the intrastate rates
14 of a carrier will be considered to be no higher than its
15 interstate rates, if the carrier's intrastate rates are no
16 higher than its interstate rates within 30 days following the
17 effective date of this amendatory Act of the 94th General
18 Assembly or within one day following the effective date of any
19 new FCC orders and regulations issued after that date.

20 (b) Notwithstanding anything to the contrary in this
21 Section or Article, the Commission retains the authority, upon
22 complaint by another telecommunications carrier, to
23 investigate and review the intrastate switched access service
24 and intrastate dedicated special access rates of any
25 telecommunications carrier that provides intrastate switched
26 access service or intrastate dedicated special access at rates
27 higher than its interstate rates for either of such services to
28 determine whether such rates are just and reasonable and to
29 revise them to the extent necessary to make them just and
30 reasonable, provided that the Commission shall have no
31 authority to order a telecommunications carrier to set its
32 rates for intrastate switched access services or intrastate
33 dedicated special access at rates lower than its interstate

1 rates for those services.

2 (c) Subsections (a) and (b) shall not apply to incumbent
3 local exchange carriers serving 35,000 or fewer access lines
4 whose intrastate switched access rates are based upon the
5 methodologies approved in the Second Interim Order of the
6 Commission in Docket No. 01-0808, unless the Commission
7 determines to investigate and changes the methodologies
8 approved in that Second Interim Order.

9 (d) For purposes of this Section, the rate for intrastate
10 switched access services means the composite, per-minute rate
11 for these services, including all applicable fixed and
12 traffic-sensitive charges.

13 (e) Nothing in subsection (a) of this Section prohibits a
14 telecommunications carrier from electing to offer intrastate
15 switched access service or intrastate dedicated special access
16 at rates lower than its interstate rates.

17 (f) Notwithstanding anything to the contrary in this
18 Section or Article, the Commission retains the authority to
19 review, upon complaint by a telecommunications carrier, the
20 provision of intrastate dedicated special access by another
21 telecommunications carrier to determine whether or not it is
22 being provided in an unreasonably discriminatory manner.

23 (220 ILCS 5/13-1200)

24 (Section scheduled to be repealed on July 1, 2005)

25 Sec. 13-1200. Repealer. This Article is repealed July 1,
26 2008 ~~2005~~.

27 (Source: P.A. 92-22, eff. 6-30-01.)

28 (220 ILCS 5/13-402.1 rep.)

29 (220 ILCS 5/13-408 rep.)

30 (220 ILCS 5/13-409 rep.)

31 (220 ILCS 5/13-502.5 rep.)

32 (220 ILCS 5/13-503 rep.)

1 (220 ILCS 5/13-505.3 rep.)

2 (220 ILCS 5/13-505.4 rep.)

3 (220 ILCS 5/13-505.5 rep.)

4 (220 ILCS 5/13-505.6 rep.)

5 (220 ILCS 5/13-505.7 rep.)

6 (220 ILCS 5/13-508 rep.)

7 (220 ILCS 5/13-508.1 rep.)

8 (220 ILCS 5/13-518 rep.)

9 (220 ILCS 5/13-802 rep.)

10 Section 10. The Public Utilities Act is amended by
11 repealing Sections 13-402.1, 13-408, 13-409, 13-502.5, 13-503,
12 13-505.3, 13-505.4, 13-505.5, 13-505.6, 13-505.7, 13-508,
13 13-508.1, 13-518, and 13-802.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law."