



Rep. Kevin A. McCarthy

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1 AMENDMENT TO HOUSE BILL 6425

2 AMENDMENT NO. _____. Amend House Bill 6425 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Sections 13-301 and 13-1200 and by adding Section 13-804 and
6 Article 13A as follows:

7 (220 ILCS 5/13-301) (from Ch. 111 2/3, par. 13-301)

8 (Section scheduled to be repealed on July 1, 2010)

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

13 (a) participate in all federal programs intended to
14 preserve or extend universal telecommunications service,
15 unless such programs would place cost burdens on Illinois
16 customers of telecommunications services in excess of the

1 benefits they would receive through participation, provided,
2 however, the Commission shall not approve or permit the
3 imposition of any surcharge or other fee designed to subsidize
4 or provide a waiver for subscriber line charges; and shall
5 report on such programs together with an assessment of their
6 adequacy and the advisability of participating therein in its
7 annual report to the General Assembly, or more often as
8 necessary;

9 (b) (Blank) ~~establish a program to monitor the level of~~
10 ~~telecommunications subscriber connection within each exchange~~
11 ~~in Illinois, and shall report the results of such monitoring~~
12 ~~and any actions it has taken or recommends be taken to maintain~~
13 ~~and increase such levels in its annual report to the General~~
14 ~~Assembly, or more often if necessary;~~

15 (c) order all telecommunications carriers offering or
16 providing local exchange telecommunications service to propose
17 low-cost or budget service tariffs and any other rate design or
18 pricing mechanisms designed to facilitate customer access to
19 such telecommunications service, and shall after notice and
20 hearing, implement any such proposals which it finds likely to
21 achieve such purpose;

22 (d) investigate the necessity of and, if appropriate,
23 establish a universal service support fund from which local
24 exchange telecommunications carriers who pursuant to the
25 Twenty-Seventh Interim Order of the Commission in Docket No.
26 83-0142 or the orders of the Commission in Docket No. 97-0621

1 and Docket No. 98-0679 received funding and whose economic
2 costs of providing services for which universal service support
3 may be made available exceed the affordable rate established by
4 the Commission for such services may be eligible to receive
5 support, less any federal universal service support received
6 for the same or similar costs of providing the supported
7 services; provided, however, that if a universal service
8 support fund is established, the Commission shall require that
9 all costs of the fund be recovered from all local exchange and
10 interexchange telecommunications carriers certificated in
11 Illinois on a competitively neutral and nondiscriminatory
12 basis. In establishing any such universal service support fund,
13 the Commission shall, in addition to the determination of costs
14 for supported services, consider and make findings pursuant to
15 paragraphs (1), (2), and (4) of item (e) of this Section. Proxy
16 cost, as determined by the Commission, may be used for this
17 purpose. In determining cost recovery for any universal service
18 support fund, the Commission shall not permit recovery of such
19 costs from another certificated carrier for any service
20 purchased and used solely as an input to a service provided to
21 such certificated carrier's retail customers; and

22 (e) investigate the necessity of and, if appropriate,
23 establish a universal service support fund in addition to any
24 fund that may be established pursuant to item (d) of this
25 Section; provided, however, that if a telecommunications
26 carrier receives universal service support pursuant to item (d)

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

19 (1) Define the group of services to be declared
20 "supported telecommunications services" that constitute
21 "universal service". This group of services shall, at a
22 minimum, include those services as defined by the Federal
23 Communications Commission and as from time to time amended.
24 In addition, the Commission shall consider the range of
25 services currently offered by telecommunications carriers
26 offering local exchange telecommunications service, the

1 existing rate structures for the supported
2 telecommunications services, and the telecommunications
3 needs of Illinois consumers in determining the supported
4 telecommunications services. The Commission shall, from
5 time to time or upon request, review and, if appropriate,
6 revise the group of Illinois supported telecommunications
7 services and the terms of the fund to reflect changes or
8 enhancements in telecommunications needs, technologies,
9 and available services.

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

15 (3) Identify the incumbent local exchange carriers'
16 economic costs of providing the supported
17 telecommunications services.

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

26 (5) Identify the telecommunications carriers from whom

1 the costs of the fund shall be recovered and the mechanism
2 to be used to determine and establish a competitively
3 neutral and non-discriminatory funding basis. From time to
4 time, or upon request, the Commission shall consider
5 whether, based upon changes in technology or other factors,
6 additional telecommunications providers should contribute
7 to the fund. The Commission shall establish the basis upon
8 which telecommunications carriers contributing to the fund
9 shall recover contributions on a competitively neutral and
10 non-discriminatory basis. In determining cost recovery for
11 any universal support fund, the Commission shall not permit
12 recovery of such costs from another certificated carrier
13 for any service purchased and used solely as an input to a
14 service provided to such certificated carriers' retail
15 customers.

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

19 No fund shall be created pursuant to this item until
20 existing implicit subsidies, including, but not limited to,
21 those subsidies contained in interexchange access charges,
22 have been identified and eliminated through revisions to rates
23 or charges. Prior to May 1, 2000, such revisions to rates or
24 charges to eliminate implicit subsidies shall occur
25 contemporaneously with any funding established pursuant to
26 this item. However, if the Commission does not establish a

1 universal service support fund by May 1, 2000, the Commission
2 shall not be prevented from entering an order or taking other
3 actions to reduce or eliminate existing subsidies as well as
4 considering the effect of such reduction or elimination on
5 local exchange carriers.

6 Any telecommunications carrier providing local exchange
7 telecommunications service which offers to its local exchange
8 customers a choice of two or more local exchange
9 telecommunications service offerings shall provide, to any
10 such customer requesting it, once a year without charge, a
11 report describing which local exchange telecommunications
12 service offering would result in the lowest bill for such
13 customer's local exchange service, based on such customer's
14 calling pattern and usage for the previous 6 months. At least
15 once a year, each such carrier shall provide a notice to each
16 of its local exchange telecommunications service customers
17 describing the availability of this report and the specific
18 procedures by which customers may receive it. Such report shall
19 only be available to current and future customers who have
20 received at least 6 months of continuous local exchange service
21 from such carrier.

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

23 (220 ILCS 5/13-804 new)

24 Sec. 13-804. Broadband investment. Increased investment
25 into broadband infrastructure is critical to the economic

1 development of this State and a key component to the retention
2 of existing jobs and the creation of new jobs. The removal of
3 regulatory uncertainty will attract greater private-sector
4 investment in broadband infrastructure. Accordingly, except to
5 the extent permitted by and consistent with federal law, the
6 regulations of the Federal Communications Commission, this
7 Section, or Article XXI or XXII of this Act, the Commission
8 shall have no jurisdiction or authority to regulate the rates,
9 terms, conditions, quality of service, availability,
10 classification, or any other aspect of the service regarding
11 broadband services; Internet Protocol enabled services,
12 including Interconnected VoIP service, as defined in 47 CFR
13 Section 9.3; information services, as defined in 47 U.S.C.
14 153(20); wireless services, including, but not limited to,
15 public mobile services, private radio service, or commercial
16 mobile service, as defined in 47 U.S.C. 332 (except the
17 Commission shall have the limited authority to certify such
18 wireless carriers to provide telecommunications services in
19 Illinois and to certify such wireless carriers as eligible
20 telecommunications carriers); or any service not commercially
21 available on the effective date of this amendatory Act of the
22 96th General Assembly.

23 (220 ILCS 5/13-1200)

24 (Section scheduled to be repealed on July 1, 2010)

25 Sec. 13-1200. Repealer. This Article is repealed July 1,

1 2014 ~~2010~~.

2 (Source: P.A. 95-9, eff. 6-30-07; 96-24, eff. 6-30-09.)

3 (220 ILCS 5/Art. XIII A heading new)

4 ARTICLE XIII A. BROADBAND INVESTMENT AND
5 CONSUMER CHOICE LAW OF 2010.

6 (220 ILCS 5/13A-100 new)

7 Sec. 13A-100. Short title. This Article shall be known and
8 may be cited as the Broadband Investment and Consumer Choice
9 Law of 2010.

10 (220 ILCS 5/13A-101 new)

11 Sec. 13A-101. Application of Act to telecommunications
12 rates and services. Articles I through V and X of this Act as
13 well as Sections 8-301, 8-305, 8-502, 8-503, 8-509, 8-509.5,
14 8-510, 9-221, 9-222, 9-222.1, 9-222.2, and 9-252.1 of this Act
15 are fully and equally applicable to competitive
16 telecommunications rates and services of an Electing Provider
17 subject to market regulation under this Article as well as to
18 the regulation of those rates and services provided by an
19 Electing Provider, except to the extent modified or
20 supplemented by the specific provisions of this Article. This
21 Article does not apply to Articles XXI and XXII of this Act.
22 Nothing in this Section shall be construed to prevent an
23 Electing Provider from accepting payment electronically or by

1 the use of a customer-preferred financially accredited credit
2 or debit methodology. Sections 4-202, 4-203, and 5-202 of this
3 Act shall not apply to telecommunications rates and services.

4 (220 ILCS 5/13A-102 new)

5 Sec. 13A-102. Findings and policy in support of market
6 regulation.

7 (a) A primary goal of the General Assembly is to fuel
8 economic recovery and job creation. Thus, it is in the
9 immediate interest of the People of the State of Illinois to
10 ensure that the economic benefits of competition and increased
11 private investment in all communications markets are realized
12 as effectively and fairly as possible. The market regulation of
13 competitive telecommunications services under this Article
14 will lead to increased innovation and efficiency in the
15 provision of telecommunications services and increased private
16 investment in broadband communications infrastructure, fueling
17 the retention and expansion of existing businesses, the
18 creation of new jobs, and the attraction of new businesses to
19 Illinois.

20 (b) The General Assembly finds that since the federal
21 Telecommunications Act of 1996 opened all telecommunications
22 service markets to competition, the technology used to provide
23 local communications services in the State has evolved and
24 continues to evolve at an ever-increasing pace. The resulting
25 competition between traditional local telephone companies and

1 other communications service providers using alternative
2 technologies promotes and continues to promote competitive
3 choices for consumers.

4 (c) Notwithstanding this well-established and broad-based
5 local competition, the General Assembly further finds that
6 traditional local telephone companies facing such competition
7 remain subject to out-dated and unnecessary regulatory
8 restrictions that do not apply to their competitors. This
9 regulatory disparity discourages new investment into broadband
10 services by the traditional local telephone companies.
11 Increased investment into broadband infrastructure is critical
12 to the economic development of this State and a key component
13 to the retention of existing jobs and the creation of new jobs.

14 (d) Thus, where local competition exists, election of
15 market regulation under this Article will relieve consumers of
16 unnecessary costs and burdens, and promote timely deployment of
17 more innovative offerings at more competitive prices for
18 consumers. Market regulation of competitive communications
19 services under this Article will also lead to increased
20 investment in broadband infrastructure, the expansion of
21 existing businesses, the creation of new jobs, and the
22 attraction of new businesses to Illinois, and will ensure that
23 Illinois remains competitive with neighboring states.

24 (e) Consistent with these findings, the General Assembly
25 declares that it is the policy of the State of Illinois that
26 competition in all telecommunications markets should be

1 pursued as a substitute for regulation in determining the
2 variety, quality, and price of telecommunications services and
3 that the economic burdens of regulation should be eliminated
4 consistent with market regulation conditions and the
5 requirements of this Article.

6 (f) As a transitional mechanism, and consistent with the
7 protection of the public interest, the General Assembly further
8 declares that it is reasonable to maintain targeted price
9 controls and service quality protections as provided in this
10 Article.

11 (220 ILCS 5/13A-201 new)

12 Sec. 13A-201. Election into market regulation of
13 competitive retail telecommunications services.

14 (a) Definitions.

15 (1) "Electing Provider" means an incumbent local
16 exchange carrier that is subject to either rate regulation
17 pursuant to Section 13-504 or Section 13-505 or alternative
18 regulation pursuant to Section 13-506.1 and that elects to
19 have the rates, terms, and conditions of its competitive
20 retail telecommunications services solely determined and
21 regulated pursuant to the terms of this Article.

22 (2) "Basic local exchange service" means either a
23 stand-alone residence network access line and per-call
24 usage or, for any geographic area in which such stand-alone
25 service is not offered, a stand-alone flat rate residence

1 network access line for which local calls are not charged
2 for frequency or duration.

3 (3) Unless otherwise specified, the defined terms set
4 forth in Article XIII shall have the same meanings when
5 used in this Section and this Article.

6 (b) Election for market regulation. Notwithstanding any
7 other provision of this Act or this Article, an Electing
8 Provider may elect to have the rates, terms, and conditions of
9 its competitive retail telecommunications services solely
10 determined and regulated pursuant to the terms of this Section
11 by filing written notice of its election for market regulation
12 with the Commission. The notice of election shall designate the
13 geographic area of the Electing Provider's service territory
14 where the market regulation shall apply, either on a state-wide
15 basis or in one or more specified Market Service Areas ("MSA")
16 or Exchange areas. An Electing Provider shall not make an
17 election for market regulation under this Section unless it
18 commits in its written notice of election for market regulation
19 to fulfill the conditions and requirements in this Section in
20 each geographic area in which market regulation is elected.
21 Immediately upon filing of the notice of election for market
22 regulation, the Electing Provider shall be subject to the
23 jurisdiction of the Commission under this Act and this Article
24 only to the extent expressly provided in this Section or this
25 Article.

26 (c) Competitive classification. Market regulation shall

1 only be available for competitive retail telecommunications
2 services as provided in this subsection.

3 (1) For geographic areas in which business and
4 residential local exchange telecommunications services
5 provided by the Electing Provider have been previously
6 classified as competitive either through legislative
7 action or a tariff filing pursuant to Section 13-502 of
8 Article XIII and that are included in the Electing
9 Provider's notice of election pursuant to subsection (b) of
10 this Section, all retail telecommunications services, and
11 all recurring and nonrecurring charges associated with,
12 related to, or used in connection with those services,
13 shall be classified as competitive in those geographic
14 areas for purposes of this Section as of the effective date
15 of this amendatory Act of the 96th General Assembly without
16 further Commission review. Any action or proceeding
17 pending before the Commission or on appeal from a
18 Commission order upon the effective date of this amendatory
19 Act of the 96th General Assembly pertaining to Section
20 13-502 of Article XIII (and the provisions of any such
21 order other than those provisions referenced in subsection
22 (d) of this Section) shall be abated and shall not be
23 maintained or continued for services classified as
24 competitive pursuant to subdivision (c)(1) of this
25 Section.

26 (2) For those geographic areas in which residential

1 local exchange telecommunications services have not been
2 classified as competitive as of the effective date of this
3 amendatory Act of the 96th General Assembly, all
4 interexchange telecommunications services provided to
5 residential end users and all telecommunications services
6 provided to business end users by an Electing Provider in a
7 geographic area that is included in its notice of election
8 pursuant to subsection (b) shall be classified as
9 competitive for purposes of this Section as of the
10 effective date of such market regulation without further
11 Commission review. In addition, to qualify for market
12 regulation under this Section for local exchange
13 telecommunications services provided to residential end
14 users, an Electing Provider has the burden of proof to
15 demonstrate that, as of the date of its application to the
16 Commission for competitive classification pursuant to this
17 Section, it meets at least one of the competitive market
18 tests set forth in this subsection in each of the requested
19 MSA or Exchange areas. An application for competitive
20 classification pursuant to this Section may contain more
21 than one MSA or Exchange area, but the competitive tests
22 described in this Section must be satisfied for each MSA or
23 Exchange area included in the application. For purposes of
24 demonstrating the presence of an unaffiliated
25 facilities-based competitor providing communications
26 services to residential customers under this Section, the

1 applicant can demonstrate such presence by providing
2 evidence that such competitor is actually serving
3 residential end users in the requested MSA or Exchange
4 areas, regardless of the number of end users it provides
5 communications service to in the requested MSA or Exchange
6 areas.

7 (A) The application to the Commission for
8 competitive classification pursuant to subdivision
9 (c)(2) of this Section shall contain an affidavit
10 submitted by the applicant and signed by an officer or
11 general partner of the applicant affirming that it
12 meets either of the following competitive showings for
13 each of the MSA or Exchange areas in which market
14 regulation is elected and will comply with all of the
15 requirements in this Section. An applicant under this
16 subsection must demonstrate in the requested MSA or
17 Exchange area either (i) that at least 15% of total
18 residential access lines or voice connections are
19 provided by unaffiliated competitors and at least 2
20 unaffiliated facilities-based competitors providing
21 communications services to residential customers are
22 present or (ii) that at least 15% of the Electing
23 Provider's total residential access lines have been
24 lost since 2001 as reflected in the Electing Provider's
25 annual report filed with the Commission and at least 3
26 unaffiliated facilities-based competitors providing

1 communications services to residential customers are
2 present. For purposes of demonstrating that a
3 competitive market test is satisfied under this
4 subsection, the applicant may, in its competitive
5 market test, include any competitive local exchange
6 carrier, cable telephony provider, Voice over Internet
7 Protocol provider, or wireless carrier serving the
8 residential market in each of the requested MSA or
9 Exchange areas. The applicant may designate
10 information that it submits in its application or
11 subsequent reports as confidential or proprietary. The
12 competitive test data provided by the applicant shall
13 be considered proprietary and trade secret information
14 and protected as such by the Commission.

15 (B) The Commission shall notify an applicant for a
16 competitive classification pursuant to subdivision
17 (c)(2) of this Section whether the applicant's
18 application and affidavit are complete on or before the
19 15th business day after the applicant submits the
20 application. If the application and affidavit are not
21 complete, the Commission shall state in its notice all
22 of the reasons the application or affidavit are
23 incomplete, and the applicant shall resubmit a
24 complete application. The Commission shall have 30
25 days after submission by the applicant of a complete
26 application and affidavit to classify the services as

1 competitive. If the Commission does not notify the
2 applicant regarding the completeness of the
3 application and affidavit or issue the competitive
4 classification within the time periods required under
5 this subsection, the application and affidavit shall
6 be considered complete, and the services shall be
7 deemed classified as competitive without further
8 Commission review upon the expiration of the 30th day.

9 (3) If an Electing Provider was previously subject to
10 alternative regulation pursuant to Section 13-506.1 of
11 Article XIII, the alternative regulation plan shall
12 terminate in whole for all services subject to that plan
13 and be of no force or effect, without further Commission
14 review or action, when the Electing Provider's residential
15 local exchange telecommunications service in each MSA in
16 its telecommunications service area in the State has been
17 classified as competitive pursuant to either subdivision
18 (c) (1) or (c) (2) of this Section.

19 (4) The service packages described in Section 13-518
20 shall be classified as competitive for purposes of this
21 Section if offered by an Electing Provider in a geographic
22 area in which local exchange telecommunications service
23 has been classified as competitive pursuant to either
24 subdivision (c) (1) or (c) (2) of this Section.

25 (d) Consumer choice safe harbor options.

26 (1) For those geographic areas in which local exchange

1 telecommunications services were not classified as
2 competitive as of the effective date of this amendatory Act
3 of the 96th General Assembly, an Electing Provider in each
4 of the MSA or Exchange areas classified as competitive
5 pursuant to subdivision (c)(2) of this Section shall offer
6 to all residential customers who choose to subscribe, for 4
7 years following such competitive classification, the
8 following optional packages of services priced at the same
9 rate levels in effect on January 1, 2010, with no price
10 increase for 3 years following competitive classification
11 under this Section.

12 (A) A basic package, which shall consist of a
13 stand-alone residential network access line and 30
14 local calls. If the Electing Provider offers a
15 stand-alone residential access line and local usage on
16 a per call basis, the price for the basic package shall
17 be the Electing Provider's applicable price in effect
18 on January 1, 2010 for the sum of a residential access
19 line and 30 local calls, additional calls over 30 calls
20 shall be provided at the current per call rate.
21 However, this basic package is not required if
22 stand-alone residential network access lines or
23 per-call local usage are not offered by the Electing
24 Provider in the geographic area on January 1, 2010.

25 (B) An extra package, which shall consist of
26 residential basic local exchange network access line

1 and unlimited local calls. The price for the extra
2 package shall be the Electing Provider's applicable
3 price in effect on January 1, 2010 for a residential
4 access line with unlimited local calls.

5 (C) A plus package, which shall consist of
6 residential basic local exchange network access line,
7 unlimited local calls, and the customer's choice of 2
8 vertical services. The term "vertical services" as
9 used in this subsection, includes, but is not limited
10 to, call waiting, call forwarding, 3-way calling,
11 caller ID, call tracing, automatic callback, repeat
12 dialing, and voicemail. The price for the plus package
13 shall be the Electing Provider's applicable price in
14 effect on January 1, 2010 for the sum of a residential
15 access line with unlimited local calls and 2 times the
16 average price for the vertical features included in the
17 package.

18 Following the 3-year rate cap period, an Electing
19 Provider may increase the prices for the service offerings
20 in this subdivision (d)(1) by not more than the amount
21 authorized for an annual increase in the monthly rates for
22 such optional service packages as authorized by the
23 Commission in Dockets 06-0027 and 08-0569.

24 (2) For those geographic areas in which local exchange
25 telecommunications services were classified as competitive
26 as of the effective date of this amendatory Act of the 96th

1 General Assembly, an Electing Provider in each of the MSA
2 or Exchange areas previously classified as competitive
3 shall continue to offer, for 4 years after the effective
4 date of this amendatory Act, the optional "basic", "extra",
5 and "plus" services priced at the same rate levels and
6 subject to the same terms and conditions as provided in
7 commitments made by the Electing Provider in connection
8 with the previous competitive classifications, which shall
9 apply with equal force under this Section. For purposes of
10 this subdivision (d) (2) "basic", "extra", and "plus"
11 packages shall be as defined in subdivision (d) (1) in this
12 Section.

13 (3) To the extent that the requirements in Section
14 13-518 applied to a carrier prior to the effective date of
15 this Section and that carrier becomes an Electing Provider
16 in accordance with the provisions of this Section, the
17 requirements in Section 13-518 shall cease to apply to that
18 Electing Provider in those geographic areas included in the
19 Electing Provider's notice of election pursuant to
20 subsection (b) of this Section.

21 (4) An Electing Provider shall make the optional
22 packages required by this subsection and stand-alone
23 residential network access lines and local usage, where
24 offered, reasonably available to interested residential
25 customers. The optional packages shall be offered on a
26 monthly basis with no term of service requirement. An

1 Electing Provider shall allow online electronic ordering
2 of the optional packages required by this subsection and
3 stand alone residential network access lines and local
4 usage, where offered, on its website in a manner similar to
5 the online electronic ordering of its other residential
6 services. The Commission shall have the power, after notice
7 and hearing as provided in this Article, upon complaint or
8 upon its own motion, to take corrective action if the
9 optional packages required by this subsection are not made
10 reasonably available by an Electing Provider.

11 (e) Service quality and customer credits for basic local
12 exchange service.

13 (1) An Electing Provider shall meet the following
14 service quality standards in providing basic local
15 exchange service, which for purposes of this subsection
16 (e), includes both basic local exchange service and the
17 consumer choice safe harbor options required pursuant to
18 subsections (d) of this Section.

19 (A) Install basic local exchange service within 5
20 business days after receipt of an order from the
21 customer unless the customer requests an installation
22 date that is beyond 5 business days after placing the
23 order for basic service and to inform the customer of
24 the Electing Provider's duty to install service within
25 this timeframe. If installation of service is
26 requested on or by a date more than 5 business days in

1 the future, the Electing Provider shall install
2 service by the date requested.

3 (B) Restore basic local exchange service for the
4 customer within 30 hours after receiving notice that
5 the customer is out of service.

6 (C) Keep all repair and installation appointments
7 for basic local exchange service if a customer premises
8 visit requires a customer to be present. The
9 appointment window shall be either a specific time or,
10 at a maximum, a 4-hour time block during evening,
11 weekend, and normal business hours.

12 (D) Inform a customer when a repair or installation
13 appointment requires the customer to be present.

14 (2) Customers shall be credited by the Electing
15 Provider for violations of basic local exchange service
16 quality standards described in subdivision (e)(1) of this
17 Section. The credits shall be applied automatically on the
18 statement issued to the customer for the next monthly
19 billing cycle following the violation or following the
20 discovery of the violation. The next monthly billing cycle
21 following the violation or the discovery of the violation
22 means the billing cycle immediately following the billing
23 cycle in process at the time of the violation or discovery
24 of the violation, provided the total time between the
25 violation or discovery of the violation and the issuance of
26 the credit shall not exceed 60 days. The Electing Provider

1 is responsible for providing the credits and the customer
2 is under no obligation to request such credits. The
3 following credits shall apply:

4 (A) If an Electing Provider fails to repair an
5 out-of-service condition for basic local exchange
6 service within 30 hours, the Electing Provider shall
7 provide a credit to the customer. If the service
8 disruption is for more than 30 hours, but not more than
9 48 hours, the credit must be equal to a pro-rata
10 portion of the monthly recurring charges for all basic
11 local exchange services disrupted. If the service
12 disruption is for more than 48 hours, but not more than
13 72 hours, the credit must be equal to at least 33% of
14 one month's recurring charges for all local services
15 disrupted. If the service disruption is for more than
16 72 hours, but not more than 96 hours, the credit must
17 be equal to at least 67% of one month's recurring
18 charges for all basic local exchange services
19 disrupted. If the service disruption is for more than
20 96 hours, but not more than 120 hours, the credit must
21 be equal to one month's recurring charges for all basic
22 local exchange services disrupted. For each day or
23 portion thereof that the service disruption continues
24 beyond the initial 120-hour period, the Electing
25 Provider shall also provide an additional credit of \$20
26 per day.

1 (B) If an Electing Provider fails to install basic
2 local exchange service as required under subdivision
3 (e)(1) of this Section, the Electing Provider shall
4 waive 50% of any installation charges, or in the
5 absence of an installation charge or where
6 installation is pursuant to the Link Up program, the
7 Electing Provider shall provide a credit of \$25. If an
8 Electing Provider fails to install service within 10
9 business days after the service application is placed,
10 or fails to install service within 5 business days
11 after the customer's requested installation date, if
12 the requested date was more than 5 business days after
13 the date of the order, the Electing Provider shall
14 waive 100% of the installation charge, or in the
15 absence of an installation charge or where
16 installation is provided pursuant to the Link Up
17 program, the Electing Provider shall provide a credit
18 of \$50. For each day that the failure to install
19 service continues beyond the initial 10 business days,
20 or beyond 5 business days after the customer's
21 requested installation date, if the requested date was
22 more than 5 business days after the date of the order,
23 the Electing Provider shall also provide an additional
24 credit of \$20 per day until the basic local exchange
25 service is installed.

26 (C) If an Electing Provider fails to keep a

1 scheduled repair or installation appointment when a
2 customer premises visit requires a customer to be
3 present as required under subdivision (e)(1) of this
4 Section, the Electing Provider shall credit the
5 customer \$25 per missed appointment. A credit required
6 by this subdivision does not apply when the Electing
7 Provider provides the customer notice of its inability
8 to keep the appointment no later than 8:00 pm of the
9 day prior to the scheduled date of the appointment.

10 (D) Credits required by this subsection do not
11 apply if the violation of a service quality standard:

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

14 (ii) occurs as a result of a malfunction of
15 customer-owned telephone equipment or inside
16 wiring;

17 (iii) occurs as a result of, or is extended by,
18 an emergency situation as defined in 83 Ill. Adm.
19 Code 732.10;

20 (iv) is extended by the Electing Provider's
21 inability to gain access to the customer's
22 premises due to the customer missing an
23 appointment, provided that the violation is not
24 further extended by the Electing Provider;

25 (v) occurs as a result of a customer request to
26 change the scheduled appointment, provided that

1 the violation is not further extended by the
2 Electing Provider;

3 (vi) occurs as a result of an Electing
4 Provider's right to refuse service to a customer as
5 provided in Commission rules; or

6 (vii) occurs as a result of a lack of
7 facilities where a customer requests service at a
8 geographically remote location, where a customer
9 requests service in a geographic area where the
10 Electing Provider is not currently offering
11 service, or where there are insufficient
12 facilities to meet the customer's request for
13 service, subject to an Electing Provider's
14 obligation for reasonable facilities planning.

15 (3) Each Electing Provider shall provide to the
16 Commission on April 1, 2012, and annually no later than
17 April 1 thereafter, in a form suitable for posting on the
18 Commission's website, a public report that includes the
19 following data for basic local exchange service quality of
20 service:

21 (A) With regard to credits due in accordance with
22 subdivision (e) (2) (A) as a result of out-of-service
23 conditions lasting more than 30 hours:

24 (i) the total dollar amount of any customer
25 credits paid;

26 (ii) the number of credits issued for repairs

1 between 30 and 48 hours;

2 (iii) the number of credits issued for repairs
3 between 49 and 72 hours;

4 (iv) the number of credits issued for repairs
5 between 73 and 96 hours;

6 (v) the number of credits used for repairs
7 between 97 and 120 hours;

8 (vi) the number of credits issued for repairs
9 greater than 120 hours; and

10 (vii) the number of exemptions claimed for
11 each of the categories identified in subdivision
12 (e) (2) (D).

13 (B) With regard to credits due in accordance with
14 subdivision (e) (2) (B) as a result of failure to install
15 basic local exchange service:

16 (i) the total dollar amount of any customer
17 credits paid;

18 (ii) the number of installations after 5
19 business days;

20 (iii) the number of installations after 10
21 business days;

22 (iv) the number of installations after 11
23 business days; and

24 (v) the number of exemptions claimed for each
25 of the categories identified in subdivision
26 (e) (2) (D).

1 (C) With regard to credits due in accordance with
2 subdivision (e) (2) (C) as a result of missed
3 appointments:

4 (i) the total dollar amount of any customer
5 credits paid;

6 (ii) the number of any customers receiving
7 credits; and

8 (iii) the number of exemptions claimed for
9 each of the categories identified in subdivision
10 (e) (2) (D).

11 (D) The Electing Provider's annual report required
12 by this subsection shall also include, for
13 informational reporting, the performance data
14 described in subdivisions (e) (2) (A), (e) (2) (B), and
15 (e) (2) (C), and trouble reports per 100 access lines
16 calculated using the Commission's existing applicable
17 rules and regulations for such measures, but not
18 including the existing requirements for service
19 standards.

20 (4) It is the intent of the General Assembly that the
21 service quality rules and customer credits in this
22 subsection (e) of this Section and other enforcement
23 mechanisms, including fines and penalties authorized by
24 Section 13-305, shall apply on a nondiscriminatory basis to
25 all Electing Providers. Accordingly, notwithstanding any
26 provision of any service quality rules promulgated by the

1 Commission, any alternative regulation plan adopted by the
2 Commission, or any other order of the Commission, any
3 Electing Provider that is subject to any other order of the
4 Commission and that violates or fails to comply with the
5 service quality standards promulgated pursuant to this
6 subsection (e) or any other order of the Commission shall
7 not be subject to any fines, penalties, customer credits,
8 or enforcement mechanisms other than such fines or
9 penalties or customer credits as may be imposed by the
10 Commission in accordance with the provisions of this
11 subsection (e) and Section 13-305, which are to be
12 generally applicable to all Electing Providers. The amount
13 of any fines or penalties imposed by the Commission for
14 failure to comply with the requirements of this subsection
15 (e) shall be an appropriate amount, taking into account, at
16 a minimum, the Electing Provider's gross annual intrastate
17 revenue; the frequency, duration, and recurrence of the
18 violation; and the relative harm caused to the affected
19 customers or other users of the network. In imposing fines
20 and penalties, the Commission shall take into account
21 compensation or credits paid by the Electing Provider to
22 its customers pursuant to this subsection (e) in
23 compensation for any violation found pursuant to this
24 subsection (e), and in any event the fine or penalty shall
25 not exceed an amount equal to the maximum amount of a civil
26 penalty that may be imposed under Section 13-305.

1 (f) Commission jurisdiction upon election for market
2 regulation.

3 (1) Except as otherwise expressly stated in this
4 Section, the Commission shall thereafter have no
5 jurisdiction or authority over any aspect of competitive
6 retail telecommunications service of an Electing Provider
7 in those geographic areas included in the Electing
8 Provider's notice of election pursuant to subsection (c) of
9 this Section, heretofore subject to the jurisdiction of the
10 Commission, including but not limited to, any requirements
11 of this Article related to the terms, conditions, rates,
12 quality of service, availability, classification or any
13 other aspect of any of the Electing Provider's competitive
14 retail telecommunications services. No Electing Provider
15 shall commit any unfair or deceptive act or practice in
16 connection with any aspect of the offering or provision of
17 any competitive retail telecommunications service. Nothing
18 in this Article shall limit or affect any provisions in the
19 Consumer Fraud and Deceptive Business Practices Act with
20 respect to any unfair or deceptive act or practice by an
21 Electing Provider.

22 (2) Notwithstanding other provisions of this Article,
23 the Commission retains its existing authority over the
24 rates and service quality as they apply to 9-1-1 system
25 providers and the provision of 9-1-1 service by an Electing
26 Provider, including the Commission's existing authority

1 over interconnection with 9-1-1 system providers and 9-1-1
2 systems. The rates, terms, and conditions for 9-1-1 service
3 provided by an Electing Provider shall be tariffed and
4 shall be provided in the manner prescribed by this Act and
5 shall be subject to the applicable laws, including rules or
6 regulations adopted and orders issued by the Commission or
7 the Federal Communications Commission.

8 (g) Commission authority over access services upon
9 election for market regulation.

10 (1) The rates of an Electing Provider's intrastate
11 access service as of the effective date of this amendatory
12 Act of the 96th General Assembly shall be deemed to be just
13 and reasonable if the rates for the applicable service are
14 set at the Electing Provider's rates for interstate access
15 service. For purposes of this subsection, the intrastate
16 access rates of an Electing Provider shall be considered to
17 be no higher than its interstate access rates if the
18 Electing Provider's intrastate rates are no higher than its
19 interstate rates within 45 days after the effective date of
20 this amendatory Act of the 96th General Assembly or, in the
21 event an Electing Provider's interstate switched access
22 rates are reduced, within 45 days after the interstate
23 access rate reduction takes effect. For purposes of this
24 subsection, the rate for intrastate switched access
25 service means the composite, per-minute rate for that
26 service, including all applicable fixed and

1 traffic-sensitive charges. Nothing in this subsection
2 prohibits an Electing Provider from electing to offer
3 intrastate access service at rates lower than its
4 interstate rates.

5 (2) The Commission retains the authority, upon
6 complaint by another telecommunications carrier or upon
7 its own investigation, to investigate and review the
8 intrastate access service rates of an Electing Provider to
9 determine whether such rates are just and reasonable, and
10 to revise them to the extent necessary to make them just
11 and reasonable. The Commission shall have no authority to
12 order an Electing Provider to set its rates for intrastate
13 access service at a level lower than its interstate access
14 service rates.

15 (220 ILCS 5/13A-301 new)

16 Sec. 13A-301. Duties of the Commission. Consistent with the
17 findings and policy established in paragraph (a) of Section
18 13A-102 and paragraph (a) of Section 13A-103, and in order to
19 ensure the attainment of those policies, the Commission shall:

20 (1) participate in all federal programs intended to
21 preserve or extend universal telecommunications service,
22 unless such programs would place cost burdens on Illinois
23 customers of telecommunications services in excess of the
24 benefits they would receive through participation
25 (however, the Commission shall not approve or permit the

1 imposition of any surcharge or other fee designed to
2 subsidize or provide a waiver for subscriber line charges),
3 and shall report on such programs together with an
4 assessment of their adequacy and the advisability of
5 participating in the programs in its annual report to the
6 General Assembly, or more often as necessary;

7 (2) order all telecommunications carriers offering or
8 providing local exchange telecommunications service to
9 propose low-cost or budget service tariffs and any other
10 rate design or pricing mechanisms designed to facilitate
11 customer access to the telecommunications service, and
12 shall, after notice and hearing, implement any such
13 proposals that it finds likely to achieve such purpose;

14 (3) investigate the necessity of and, if appropriate,
15 establish a universal service support fund from which local
16 exchange telecommunications carriers who pursuant to the
17 Twenty-Seventh Interim Order of the Commission in Docket
18 No. 83-0142 or the orders of the Commission in Docket No.
19 97-0621 and Docket No. 98-0679 received funding and whose
20 economic costs of providing services for which universal
21 service support may be made available exceed the affordable
22 rate established by the Commission for such services may be
23 eligible to receive support, less any federal universal
24 service support received for the same or similar costs of
25 providing the supported services; provided, however, that
26 if a universal service support fund is established, the

1 Commission shall require that all costs of the fund be
2 recovered from all local exchange and interexchange
3 telecommunications carriers certificated in Illinois on a
4 competitively neutral and nondiscriminatory basis. In
5 establishing any such universal service support fund, the
6 Commission shall, in addition to the determination of costs
7 for supported services, consider and make findings
8 pursuant to paragraphs (A), (B), and (D) of item (4) of
9 this Section. Proxy cost, as determined by the Commission,
10 may be used for this purpose. In determining cost recovery
11 for any universal service support fund, the Commission
12 shall not permit recovery of such costs from another
13 certificated carrier for any service purchased and used
14 solely as an input to a service provided to such
15 certificated carrier's retail customers; and

16 (4) investigate the necessity of and, if appropriate,
17 establish a universal service support fund in addition to
18 any fund that may be established pursuant to item (3) of
19 this Section; provided, however, that if a
20 telecommunications carrier receives universal service
21 support pursuant to item (3) of this Section, that
22 telecommunications carrier shall not receive universal
23 service support pursuant to this item. Recipients of any
24 universal service support funding created by this item (4)
25 shall be eligible telecommunications carriers, as
26 designated by the Commission in accordance with 47 U.S.C.

1 214(e)(2). Eligible telecommunications carriers providing
2 local exchange telecommunications service may be eligible
3 to receive support for such services, less any federal
4 universal service support received for the same or similar
5 costs of providing the supported services. If a fund is
6 established, the Commission shall require that the costs of
7 such fund be recovered from all telecommunications
8 carriers, with the exception of wireless carriers who are
9 providers of 2-way cellular telecommunications service and
10 who have not been designated as eligible
11 telecommunications carriers, on a competitively neutral
12 and non-discriminatory basis. In any order creating a fund
13 pursuant to this item, the Commission, after notice and
14 hearing, shall do all of the following:

15 (A) Define the group of services to be declared
16 "supported telecommunications services" that
17 constitute "universal service". This group of services
18 shall, at a minimum, include those services as defined
19 by the Federal Communications Commission. In addition,
20 the Commission shall consider the range of services
21 currently offered by telecommunications carriers
22 offering local exchange telecommunications service,
23 the existing rate structures for the supported
24 telecommunications services, and the
25 telecommunications needs of Illinois consumers in
26 determining the supported telecommunications services.

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

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

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

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

23 (E) Identify the telecommunications carriers from
24 whom the costs of the fund shall be recovered and the
25 mechanism to be used to determine and establish a
26 competitively neutral and non-discriminatory funding

1 basis. From time to time, or upon request, the
2 Commission shall consider whether, based upon changes
3 in technology or other factors, additional
4 telecommunications providers should contribute to the
5 fund. The Commission shall establish the basis upon
6 which telecommunications carriers contributing to the
7 fund shall recover contributions on a competitively
8 neutral and non-discriminatory basis. In determining
9 cost recovery for any universal support fund, the
10 Commission shall not permit recovery of such costs from
11 another certificated carrier for any service purchased
12 and used solely as an input to a service provided to
13 such certificated carriers' retail customers.

14 (F) Approve a plan for the administration and
15 operation of the fund by a neutral third party
16 consistent with the requirements of this item (4).

17 No fund shall be created pursuant to this item (4)
18 until existing implicit subsidies, including, but not
19 limited to, those subsidies contained in interexchange
20 access charges, have been identified and eliminated
21 through revisions to rates or charges. If the Commission
22 does not establish a universal service support fund, the
23 Commission shall not be prevented from entering an order or
24 taking other actions to reduce or eliminate existing
25 subsidies as well as considering the effect of such
26 reduction or elimination on local exchange carriers.

1 Any telecommunications carrier providing local exchange
2 telecommunications service that offers to its local exchange
3 customers a choice of 2 or more local exchange
4 telecommunications service offerings shall provide to any such
5 customer requesting it, once a year without charge, a report
6 describing which local exchange telecommunications service
7 offering would result in the lowest bill for such customer's
8 local exchange service, based on such customer's calling
9 pattern and usage for the previous 6 months. At least once a
10 year, each such carrier shall provide a notice to each of its
11 local exchange telecommunications service customers describing
12 the availability of this report and the specific procedures by
13 which customers may receive it. Such report shall only be
14 available to current and future customers who have received at
15 least 6 months of continuous local exchange service from such
16 carrier.

17 (220 ILCS 5/13A-301.1 new)

18 Sec. 13A-301.1. Universal Telephone Service Assistance
19 Program.

20 (a) The Commission shall by rule establish a Universal
21 Telephone Service Assistance Program for low-income
22 residential customers. The program shall provide for a
23 reduction of access line charges, a reduction of connection
24 charges, or any other alternative to increase accessibility to
25 telephone service that the Commission deems advisable subject

1 to the availability of funds for the program as provided in
2 subsection (d). The Commission shall establish eligibility
3 requirements for benefits under the program.

4 (b) The Commission shall adopt rules providing for enhanced
5 enrollment for eligible consumers to receive lifeline service.
6 Enhanced enrollment may include, but is not limited to, joint
7 marketing, joint application, or joint processing with the
8 Low-Income Home Energy Assistance Program, the Medicaid
9 Program, and the Food Stamp Program. The Department of Human
10 Services, the Department of Healthcare and Family Services, and
11 the Department of Commerce and Economic Opportunity, upon
12 request of the Commission, shall assist in the adoption and
13 implementation of those rules. The Commission and the
14 Department of Human Services, the Department of Healthcare and
15 Family Services, and the Department of Commerce and Economic
16 Opportunity may enter into memoranda of understanding
17 establishing the respective duties of the Commission and the
18 Departments in relation to enhanced enrollment.

19 (c) In this Section, "lifeline service" means a retail
20 local service offering described by 47 C.F.R. Section
21 54.401(a), as amended.

22 (d) The Commission shall require by rule that each
23 telecommunications carrier providing local exchange
24 telecommunications services notify its customers that if the
25 customer wishes to participate in the funding of the Universal
26 Telephone Service Assistance Program, then he may do so by

1 electing to contribute, on a monthly basis, a fixed amount that
2 will be included in the customer's monthly bill. The customer
3 may cease contributing at any time upon providing notice to the
4 telecommunications carrier providing local exchange
5 telecommunications services. The notice shall state that any
6 contribution made will not reduce the customer's bill for
7 telecommunications services. Failure to remit the amount of
8 increased payment will reduce the contribution accordingly.
9 The Commission shall specify the monthly fixed amount or
10 amounts that customers wishing to contribute to the funding of
11 the Universal Telephone Service Assistance Program may choose
12 from in making their contributions. Every telecommunications
13 carrier providing local exchange telecommunications services
14 shall remit the amounts contributed in accordance with the
15 terms of the Universal Telephone Service Assistance Program.

16 (220 ILCS 5/13A-301.2 new)

17 Sec. 13A-301.2. Program to Foster Elimination of the
18 Digital Divide. The Commission shall require by rule that each
19 telecommunications carrier providing local exchange
20 telecommunications service notify its end-user customers that
21 if the customer wishes to participate in the funding of the
22 Program to Foster Elimination of the Digital Divide, then he or
23 she may do so by electing to contribute, on a monthly basis, a
24 fixed amount that will be included in the customer's monthly
25 bill. The obligations imposed in this Section shall not be

1 imposed upon a telecommunications carrier for any of its
2 end-users subscribing to any of the following services: (1)
3 private line service that is not directly or indirectly used
4 for the origination or termination of switched
5 telecommunications service; (2) cellular radio service; (3)
6 high-speed point-to-point data transmission at or above 9.6
7 kilobits; (4) telecommunications service by a company or person
8 otherwise subject to subsection (c) of Section 13A-202 to a
9 telecommunications carrier, which is incidental to the
10 provision of service subject to subsection (c) of Section
11 13A-202; (5) pay telephone service; or (6) interexchange
12 telecommunications service. The customer may cease
13 contributing at any time upon providing notice to the
14 telecommunications carrier. The notice shall state that any
15 contribution made will not reduce the customer's bill for
16 telecommunications services. Failure to remit the amount of
17 increased payment shall reduce the contribution accordingly.
18 The Commission shall specify the monthly fixed amount or
19 amounts that customers wishing to contribute to the funding of
20 the Program to Foster Elimination of the Digital Divide may
21 choose from in making their contributions. A
22 telecommunications carrier subject to this obligation shall
23 remit the amounts contributed by its customers to the
24 Department of Commerce and Economic Opportunity for deposit in
25 the Digital Divide Elimination Fund at the intervals specified
26 in the Commission rules.

1 (220 ILCS 5/13A-301.3 new)

2 Sec. 13A-301.3. Digital Divide Elimination Infrastructure
3 Program.

4 (a) The Digital Divide Elimination Infrastructure Fund is
5 created as a special fund in the State treasury. All moneys in
6 the Fund shall be used, subject to appropriation, by the
7 Commission to fund (i) the construction of facilities specified
8 in Commission rules adopted under this Section and (ii) the
9 accessible electronic information program, as provided in
10 Section 20 of the Accessible Electronic Information Act. The
11 Commission may accept private and public funds, including
12 federal funds, for deposit into the Fund. Earnings attributable
13 to moneys in the Fund shall be deposited into the Fund.

14 (b) The Commission shall adopt rules under which it will
15 make grants out of funds appropriated from the Digital Divide
16 Elimination Infrastructure Fund to eligible entities as
17 specified in the rules for the construction of high-speed data
18 transmission facilities in eligible areas of the State. For
19 purposes of determining whether an area is an eligible area,
20 the Commission shall consider, among other things, whether (i)
21 in such area, advanced telecommunications services, as defined
22 in subsection (c) of Section 13A-517 of this Act, are
23 under-provided to residential or small business end users,
24 either directly or indirectly through an Internet Service
25 Provider, (ii) such area has a low population density, and

1 (iii) such area has not yet developed a competitive market for
2 advanced services. In addition, if an entity seeking a grant of
3 funds from the Digital Divide Elimination Infrastructure Fund
4 is an incumbent local exchange carrier having the duty to serve
5 such area, and the obligation to provide advanced services to
6 such area pursuant to Section 13A-517 of this Act, the entity
7 shall demonstrate that it has sought and obtained an exemption
8 from such obligation pursuant to subsection (b) of Section
9 13A-517. Any entity seeking a grant of funds from the Digital
10 Divide Elimination Infrastructure Fund shall demonstrate to
11 the Commission that the grant shall be used for the
12 construction of high-speed data transmission facilities in an
13 eligible area and demonstrate that it satisfies all other
14 requirements of the Commission's rules. The Commission shall
15 determine the information that it deems necessary to award
16 grants pursuant to this Section.

17 (c) The rules of the Commission shall provide for the
18 competitive selection of recipients of grant funds available
19 from the Digital Divide Elimination Infrastructure Fund
20 pursuant to the Illinois Procurement Code. Grants shall be
21 awarded to bidders chosen on the basis of the criteria
22 established in such rules.

23 (d) All entities awarded grant moneys under this Section
24 shall maintain all records required by Commission rule for the
25 period of time specified in the rules. Such records shall be
26 subject to audit by the Commission, by any auditor appointed by

1 the State, or by any State officer authorized to conduct
2 audits.

3 (220 ILCS 5/13A-302 new)

4 Sec. 13A-302. Safety of service equipment and facilities.

5 (a) An Electing Provider shall furnish, provide, and
6 maintain such service instrumentalities, equipment, and
7 facilities as shall promote the safety, health, comfort, and
8 convenience of its patrons, employees, and public and as shall
9 be in all respects adequate, reliable, and efficient. Every
10 Electing Provider shall provide service and facilities that are
11 in all respects environmentally safe.

12 (b) The Commission is authorized to conduct an
13 investigation of any Electing Provider or part thereof. The
14 investigation may examine the reasonableness, prudence, or
15 efficiency of any aspect of the Electing Provider's operations
16 or functions that may affect the adequacy, safety, efficiency,
17 or reliability of telecommunications service. The Commission
18 may conduct or order an investigation only when it has
19 reasonable grounds to believe that the investigation is
20 necessary to assure that the Electing Provider is providing
21 adequate, efficient, reliable, and safe service. The
22 Commission shall, before initiating any such investigation,
23 issue an order describing the grounds for the investigation and
24 the appropriate scope and nature of the investigation. The
25 scope and nature of any such investigation shall be reasonably

1 related to the grounds relied upon by the Commission in its
2 order.

3 (220 ILCS 5/13A-303 new)

4 Sec. 13A-303. Action to enforce law or orders. Whenever the
5 Commission is of the opinion that a telecommunications carrier
6 is failing or omitting, or is about to fail or omit, to do
7 anything required of it by law or by an order, decision, rule,
8 regulation, direction, or requirement of the Commission or is
9 doing or permitting anything to be done, or is about to do
10 anything or is about to permit anything to be done, contrary to
11 or in violation of law or an order, decision, rule, regulation,
12 direction, or requirement of the Commission, the Commission
13 shall file an action or proceeding in the circuit court in and
14 for the county in which the case or some part thereof arose or
15 in which the telecommunications carrier complained of has its
16 principal place of business, in the name of the People of the
17 State of Illinois for the purpose of having the violation or
18 threatened violation stopped and prevented either by mandamus
19 or injunction. The Commission may express its opinion in a
20 resolution based upon whatever factual information has come to
21 its attention and may issue the resolution ex parte and without
22 holding any administrative hearing before bringing suit.
23 Except in cases involving an imminent threat to the public
24 health and safety, no such resolution shall be adopted until 48
25 hours after the telecommunications carrier has been given

1 notice of (i) the substance of the alleged violation, including
2 citation to the law, order, decision, rule, regulation, or
3 direction of the Commission alleged to have been violated and
4 (ii) the time and the date of the meeting at which such
5 resolution will first be before the Commission for
6 consideration.

7 The Commission shall file the action or proceeding by
8 complaint in the circuit court alleging the violation or
9 threatened violation complained of and praying for appropriate
10 relief by way of mandamus or injunction. It shall be the duty
11 of the court to specify a time, not exceeding 20 days after the
12 service of the copy of the complaint, within which the
13 telecommunications carrier complained of must answer the
14 complaint, and in the meantime the telecommunications carrier
15 may be restrained. In case of default in answer or after
16 answer, the court shall immediately inquire into the facts and
17 circumstances of the case. The telecommunications carrier and
18 persons that the court may deem necessary or proper may be
19 joined as parties. The final judgment in any action or
20 proceeding shall either dismiss the action or proceeding or
21 grant relief by mandamus or injunction as prayed for in the
22 complaint, or in such modified or other form as will afford
23 appropriate relief in the court's judgment.

24 (220 ILCS 5/13A-303.5 new)

25 Sec. 13A-303.5. Injunctive relief. If, after a hearing, the

1 Commission determines that a telecommunications carrier has
2 violated this Act or a Commission order or rule, any
3 telecommunications carrier adversely affected by the violation
4 may seek injunctive relief in circuit court.

5 (220 ILCS 5/13A-304 new)

6 Sec. 13A-304. Action to recover civil penalties.

7 (a) The Commission shall assess and collect all civil
8 penalties established under this Act against
9 telecommunications carriers, corporations other than
10 telecommunications carriers, and persons acting as
11 telecommunications carriers. Except for the penalties provided
12 under Section 2-202, civil penalties may be assessed only after
13 notice and opportunity to be heard. Any such civil penalty may
14 be compromised by the Commission. In determining the amount of
15 the civil penalty to be assessed, or the amount of the civil
16 penalty to be compromised, the Commission is authorized to
17 consider any matters of record in aggravation or mitigation of
18 the penalty, including but not limited to the following:

19 (1) the duration and gravity of the violation of the
20 Act, the rules, or the order of the Commission;

21 (2) the presence or absence of due diligence on the
22 part of the violator in attempting either to comply with
23 requirements of the Act, the rules, or the order of the
24 Commission, or to secure lawful relief from those
25 requirements;

1 (3) any economic benefits accrued by the violator
2 because of the delay in compliance with requirements of the
3 Act, the rules, or the order of the Commission; and

4 (4) the amount of monetary penalty that will serve to
5 deter further violations by the violator and to otherwise
6 aid in enhancing voluntary compliance with the Act, the
7 rules, or the order of the Commission by the violator and
8 other persons similarly subject to the Act.

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

23 (c) Actions to recover delinquent civil penalties under
24 this Section shall be brought in the name of the People of the
25 State of Illinois in the circuit court in and for the county in
26 which the cause, or some part thereof, arose, or in which the

1 entity complained of resides. The action shall be commenced and
2 prosecuted to final judgment by the Commission. In any such
3 action, all interest incurred up to the time of final court
4 judgment may be recovered in that action. In all such actions,
5 the procedure and rules of evidence shall be the same as in
6 ordinary civil actions, except as otherwise herein provided.
7 Any such action may be compromised or discontinued on
8 application of the Commission upon such terms as the court
9 shall approve and order.

10 (d) Civil penalties related to the late filing of reports,
11 taxes, or other filings shall be paid into the State treasury
12 to the credit of the Public Utility Fund. Except as otherwise
13 provided in this Act, all other fines and civil penalties shall
14 be paid into the State treasury to the credit of the General
15 Revenue Fund.

16 (220 ILCS 5/13A-305 new)

17 Sec. 13A-305. Amount of civil penalty. A
18 telecommunications carrier, any corporation other than a
19 telecommunications carrier, or any person acting as a
20 telecommunications carrier that violates or fails to comply
21 with any provisions of this Act or that fails to obey, observe,
22 or comply with any order, decision, rule, regulation,
23 direction, or requirement, or any part or provision thereof, of
24 the Commission, made or issued under authority of this Act, in
25 a case in which a civil penalty is not otherwise provided for

1 in this Act, but excepting Section 5-202 of the Act, shall be
2 subject to a civil penalty imposed in the manner provided in
3 Section 13A-304 of no more than \$30,000 or 0.00825% of the
4 carrier's gross intrastate annual telecommunications revenue,
5 whichever is greater, for each offense unless the violator has
6 fewer than 35,000 subscriber access lines, in which case the
7 civil penalty may not exceed \$2,000 for each offense.

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

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

24 In case of a continuing violation, each day's continuance
25 thereof shall be a separate and distinct offense. In construing
26 and enforcing the provisions of this Act relating to penalties,

1 the act, omission, or failure of any officer, agent, or
2 employee of any telecommunications carrier or of any person
3 acting within the scope of his or her duties or employment
4 shall in every case be deemed to be the act, omission, or
5 failure of such telecommunications carrier or person.

6 If the party who has violated or failed to comply with this
7 Act or an order, decision, rule, regulation, direction, or
8 requirement of the Commission, or any part or provision
9 thereof, fails to seek timely review pursuant to Sections
10 10-113.1 and 10-201 of this Act, the party shall, upon
11 expiration of the statutory time limit, be subject to the civil
12 penalty provision of this Section. Twenty percent of all moneys
13 collected under this Section shall be deposited into the
14 Digital Divide Elimination Fund and 20% of all moneys collected
15 under this Section shall be deposited into the Digital Divide
16 Elimination Infrastructure Fund.

17 (220 ILCS 5/13A-401 new)

18 Sec. 13A-401. Certificate of Service Authority.

19 (a) No telecommunications carrier not possessing a
20 certificate of public convenience and necessity or certificate
21 of authority from the Commission at the time this Article goes
22 into effect shall transact any business in this State until it
23 shall have obtained a certificate of service authority from the
24 Commission pursuant to the provisions of this Article. No
25 telecommunications carrier offering or providing, or seeking

1 to offer or provide, any interexchange telecommunications
2 service shall do so until it has applied for and received a
3 Certificate of Interexchange Service Authority pursuant to the
4 provisions of Section 13A-403. No telecommunications carrier
5 offering or providing, or seeking to offer or provide, any
6 local exchange telecommunications service shall do so until it
7 has applied for and received a Certificate of Exchange Service
8 Authority pursuant to the provisions of Section 13A-405.

9 Notwithstanding Sections 13A-403, 13A-404, and 13A-405,
10 the Commission shall approve a cellular radio application for a
11 Certificate of Service Authority without a hearing upon a
12 showing by the cellular applicant that the Federal
13 Communications Commission has issued to it a construction
14 permit or an operating license to construct or operate a
15 cellular radio system in the area as defined by the Federal
16 Communications Commission, or portion of the area, for which
17 the carrier seeks a Certificate of Service Authority. No
18 Certificate of Service Authority issued by the Commission shall
19 be construed as granting a monopoly or exclusive privilege,
20 immunity or franchise. The issuance of a Certificate of Service
21 Authority to any telecommunications carrier shall not preclude
22 the Commission from issuing additional Certificates of Service
23 Authority to other telecommunications carriers providing the
24 same or equivalent service or serving the same geographical
25 area or customers as any previously certified carrier, except
26 to the extent otherwise provided by Sections 13A-403 and

1 13A-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

1 shall remain in force not to exceed one year in cases of
2 emergency, to assure maintenance of adequate service or to
3 serve particular customers, without notice and hearing,
4 pending the determination of an application for a Certificate,
5 and may by regulation exempt from the requirements of this
6 Section temporary acts or operations for which the issuance of
7 a certificate is not necessary in the public interest and which
8 will not be required therefor.

9 (220 ILCS 5/13A-402 new)

10 Sec. 13A-402. Waiver or modification of rules.The
11 Commission is authorized, in connection with the issuance or
12 modification of a Certificate of Interexchange Service
13 Authority or the modification of a certificate of public
14 convenience and necessity for interexchange telecommunications
15 service, to waive or modify the application of its rules,
16 general orders, procedures or notice requirements when such
17 action will reduce the economic burdens of regulation and such
18 waiver or modification is not inconsistent with the law or the
19 purposes and policies of this Article.

20 Any such waiver or modification granted to any
21 interexchange telecommunications carrier which has, or any
22 group of such carriers any one of which has annual revenues
23 exceeding \$10,000,000 shall be automatically applied fully and
24 equally to all such carriers with annual revenues exceeding
25 \$10,000,000 unless the Commission specifically finds, after

1 notice to all such carriers and a hearing, that restricting the
2 application of such waiver or modification to only one such
3 carrier or some group of such carriers is consistent with and
4 would promote the purposes and policies of this Article and the
5 protection of telecommunications customers.

6 (220 ILCS 5/13A-403 new)

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

22 The Commission shall have authority to alter the boundaries
23 of Market Service Areas when such alteration is consistent with
24 the public interest and the purposes and policies of this
25 Article. A determination by the Commission with respect to

1 Market Service Area boundaries shall not modify or affect the
2 rights or obligations of any telecommunications carrier with
3 respect to any consent decree or agreement with the United
4 States Department of Justice, including, but not limited to,
5 the Modification of Final Judgment in United States v. Western
6 Electric Co., 552 F. Supp. 13.11 (D.D.C. 1982), as modified
7 from time to time.

8 (220 ILCS 5/13A-404 new)

9 Sec. 13A-404. Telecommunications carrier. Any
10 telecommunications carrier offering or providing the resale of
11 either local exchange or interexchange telecommunications
12 service must first obtain a Certificate of Service Authority.
13 The Commission shall approve an application for a Certificate
14 for the resale of local exchange or interexchange
15 telecommunications service upon a showing by the applicant, and
16 a finding by the Commission, after notice and hearing, that the
17 applicant possesses sufficient technical, financial, and
18 managerial resources and abilities to provide the resale of
19 telecommunications service.

20 (220 ILCS 5/13A-404.1 new)

21 Sec. 13A-404.1. Prepaid calling service authority; rules.
22 (a) The General Assembly finds that it is necessary to
23 require the certification of prepaid calling service providers
24 to protect and promote against fraud the legitimate business

1 interests of persons or entities currently providing prepaid
2 calling service to Illinois end users and Illinois end users
3 who purchase these services.

4 (b) It shall be unlawful for any prepaid calling service
5 provider to offer or provide or seek to offer or provide to any
6 distributor, prepaid calling service reseller, prepaid calling
7 service retailer, or end user any prepaid calling service
8 unless the prepaid calling service provider has applied for and
9 received a Certificate of Prepaid Calling Service Provider
10 Authority from the Commission. The Commission shall approve an
11 application for a Certificate of Prepaid Calling Service
12 Provider Authority upon a showing by the applicant, and a
13 finding by the Commission, after notice and hearing, that the
14 applicant possesses sufficient technical, financial, and
15 managerial resources and abilities to provide prepaid calling
16 services. The Commission shall approve an application for a
17 Certificate of Prepaid Calling Service Provider Authority
18 without a hearing upon a showing by the applicant that the
19 Commission has issued an appropriate Certificate of Service
20 Authority (whether a Certificate of Interexchange Service
21 Authority or Certificate of Exchange Service Authority or both)
22 to the applicant or the telecommunications carrier whose
23 service the applicant is seeking to resell, provided that the
24 telecommunications carrier remains in good standing with the
25 Commission. The Commission may adopt rules necessary for the
26 administration of this subsection.

1 (c) Upon issuance of a Certificate of Prepaid Calling
2 Service Provider Authority to a prepaid calling service
3 provider, the Commission shall post a list that contains the
4 full legal name of the prepaid service provider, the docket
5 number of the provider's certification proceeding, and the
6 toll-free customer service number of the certified prepaid
7 calling service provider on the Commission's web site on a link
8 solely dedicated to prepaid calling service providers. If the
9 certified prepaid calling service provider changes its
10 toll-free customer service number, it is the duty of the
11 certified prepaid calling service provider to provide the
12 Commission with notice of the change and with the provider's
13 new toll-free customer service number at least 24 hours prior
14 to changing its toll-free customer service number. The
15 Commission may adopt rules that further define the
16 administration of this subsection.

17 (d) Any and all enforcement authority granted to the
18 Commission under this Article over any Certificate of Service
19 Authority shall apply equally and without limitation to
20 Certificates of Prepaid Calling Service Provider Authority.

21 (220 ILCS 5/13A-404.2 new)

22 Sec. 13A-404.2. Prepaid calling service standards. The
23 Commission, by rule, may establish and implement minimum
24 service quality standards for prepaid calling service. The
25 rules may include, but are not limited to, requiring access to

1 a live customer service attendant through the customer service
2 number, reporting requirements, fines, penalties, customer
3 credits, remedies, and other enforcement mechanisms to ensure
4 compliance with the service quality standards.

5 (220 ILCS 5/13A-405 new)

6 Sec. 13A-405. Local exchange service authority; approval.
7 The Commission shall approve an application for a Certificate
8 of Exchange Service Authority only upon a showing by the
9 applicant, and a finding by the Commission, after notice and
10 hearing, that the applicant possesses sufficient technical,
11 financial, and managerial resources and abilities to provide
12 local exchange telecommunications service.

13 (220 ILCS 5/13A-406 new)

14 Sec. 13A-406. Discontinuance or abandonment of a
15 competitive telecommunications service. No Electing Provider
16 subject to the provisions of this Article offering or providing
17 competitive telecommunications service to an identifiable
18 class or group of customers shall completely discontinue or
19 abandon such service in any exchange area included in the
20 Electing Providers notice of election pursuant to Section
21 13A-201(b) except upon 30 days notice to the Commission and
22 affected customers. The Commission may, upon its own motion or
23 upon complaint, investigate the proposed discontinuance or
24 abandonment of a competitive telecommunications service and

1 may, after notice and hearing, prohibit such proposed
2 discontinuance or abandonment if the Commission finds that it
3 would be contrary to the public interest.

4 (220 ILCS 5/13A-501 new)

5 Sec. 13A-501. Tariff; filing. No Electing Provider shall
6 offer or provide telecommunications service unless and until a
7 tariff is filed with the Commission which describes the nature
8 of the service, applicable rates and other charges, terms and
9 conditions of service, and the exchange, exchanges or other
10 geographical area or areas in which the service shall be
11 offered or provided. The Commission may prescribe the form of
12 such tariff and any additional data or information which shall
13 be included in the tariff. Revenue received by an Electing
14 Provider pursuant to such tariffs shall be gross revenue for
15 purposes of Section 2-202 of this Act.

16 (220 ILCS 5/13A-501.5 new)

17 Sec. 13A-501.5. Directory assistance service for the
18 blind. A telecommunications carrier that provides directory
19 assistance service shall provide in its tariffs for that
20 service that directory assistance shall be provided at no
21 charge to its customers who are legally blind for telephone
22 numbers of customers located within the same calling area, as
23 described in the telecommunications carrier's tariff.

1 (220 ILCS 5/13A-505 new)

2 Sec. 13A-505. Rate changes; competitive services. Any
3 proposed increase or decrease in rates or charges, or proposed
4 change in any classification or tariff resulting in an increase
5 or decrease in rates or charges, for an Electing Provider's
6 competitive telecommunications service shall be permitted upon
7 the filing of the proposed rate, charge, classification, or
8 tariff. Prior notice of an increase shall be given to all
9 potentially affected customers by mail, or equivalent means of
10 notice, including electronic if the customer has elected
11 electronic billing.

12 (220 ILCS 5/13A-509 new)

13 Sec. 13A-509. Agreements for provisions of competitive
14 telecommunications services differing from tariffs. An
15 Electing Provider may negotiate with customers or prospective
16 customers to provide competitive telecommunications service,
17 and in so doing, may offer or agree to provide such service on
18 such terms and for such rates or charges as are reasonable,
19 without regard to any informational tariffs it may have filed
20 with the Commission with respect to such services. Upon request
21 of the Commission, the Electing Provider shall submit to the
22 Commission written notice of a list of any such agreements
23 (which list may be filed electronically) that it has entered
24 into within the past year. The notice shall identify the
25 general nature of all such agreements, the parties to each

1 agreement, and a general description of differences between
2 each agreement and the related tariff. A copy of each such
3 agreement, shall be provided to the Commission within 10
4 business days after a request for review of the agreement is
5 made by the Commission or is made to the Commission by another
6 telecommunications carrier. Any agreement or notice entered
7 into or submitted pursuant to the provisions of this Section
8 may, in the Commission's discretion, be accorded proprietary
9 treatment.

10 (220 ILCS 5/13A-510 new)

11 Sec. 13A-510. Compensation of payphone providers. Any
12 telecommunications carrier using the facilities or services of
13 a payphone provider shall pay the provider just and reasonable
14 compensation for the use of those facilities or services to
15 complete billable operator services calls and for any other use
16 that the Commission determines appropriate consistent with the
17 provisions of this Act. The compensation shall be determined by
18 the Commission subject to the provisions of this Act. This
19 Section shall not apply to the extent a telecommunications
20 carrier and a payphone provider have reached their own written
21 compensation agreement.

22 (220 ILCS 5/13A-512 new)

23 Sec. 13A-512. Rules; review. The Commission shall have
24 general rulemaking authority to make rules necessary to enforce

1 this Article. However, not later than 270 days after the
2 effective date of this amendatory Act of 1997, and every 2
3 years thereafter, the Commission shall review all rules issued
4 under this Article that apply to the operations or activities
5 of any telecommunications carrier. The Commission shall, after
6 notice and hearing, repeal or modify any rule it determines to
7 be no longer in the public interest as the result of the
8 reasonable availability of competitive telecommunications
9 services.

10 (220 ILCS 5/13A-513.1 new)

11 Sec. 13A-513.1. Waiver of rules. A telecommunications
12 carrier may petition for waiver of the application of a rule
13 issued pursuant to this Act. The burden of proof in
14 establishing the right to a waiver shall be upon the
15 petitioner. The petition shall include a demonstration that the
16 waiver would not harm consumers and would not impede the
17 development or operation of a competitive market. Upon such
18 demonstration, the Commission may waive the application of a
19 rule, but not the application of a provision of this Act. The
20 Commission may conduct an investigation of the petition on its
21 own motion or at the request of a potentially affected person.
22 If no investigation is conducted, the waiver shall be deemed
23 granted 30 days after the petition is filed.

24 (220 ILCS 5/13A-514 new)

1 Sec. 13A-514. Prohibited actions of telecommunications
2 carriers. A telecommunications carrier shall not knowingly
3 impede the development of competition in any
4 telecommunications service market. The following prohibited
5 actions are considered per se impediments to the development of
6 competition; however, the Commission is not limited in any
7 manner to these enumerated impediments and may consider other
8 actions which impede competition to be prohibited:

9 (1) unreasonably refusing or delaying interconnections
10 or collocation or providing inferior connections to
11 another telecommunications carrier;

12 (2) unreasonably impairing the speed, quality, or
13 efficiency of services used by another telecommunications
14 carrier;

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

22 (4) unreasonably delaying access in connecting another
23 telecommunications carrier to the local exchange network
24 whose product or service requires novel or specialized
25 access requirements;

26 (5) unreasonably refusing or delaying access by any

1 person to another telecommunications carrier;

2 (6) unreasonably acting or failing to act in a manner
3 that has a substantial adverse effect on the ability of
4 another telecommunications carrier to provide service to
5 its customers;

6 (7) unreasonably failing to offer services to
7 customers in a local exchange, where a telecommunications
8 carrier is certificated to provide service and has entered
9 into an interconnection agreement for the provision of
10 local exchange telecommunications services, with the
11 intent to delay or impede the ability of the incumbent
12 local exchange telecommunications carrier to provide
13 inter-LATA telecommunications services;

14 (8) violating the terms of or unreasonably delaying
15 implementation of an interconnection agreement entered
16 into pursuant to Section 252 of the federal
17 Telecommunications Act of 1996 in a manner that
18 unreasonably delays, increases the cost, or impedes the
19 availability of telecommunications services to consumers;

20 (9) unreasonably refusing or delaying access to or
21 provision of operation support systems to another
22 telecommunications carrier or providing inferior operation
23 support systems to another telecommunications carrier;

24 (10) unreasonably failing to offer network elements
25 that the Commission or the Federal Communications
26 Commission has determined must be offered on an unbundled

1 basis to another telecommunications carrier in a manner
2 consistent with the Commission's or Federal Communications
3 Commission's orders or rules requiring such offerings;

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

5 (12) violating an order of the Commission regarding
6 matters between telecommunications carriers.

7 (220 ILCS 5/13A-515 new)

8 Sec. 13A-515. Enforcement.

9 (a) The following expedited procedures shall be used to
10 enforce the provisions of Section 13A-514 of this Act. However,
11 the Commission, the complainant, and the respondent may
12 mutually agree to adjust the procedures established in this
13 Section.

14 (b) (Blank).

15 (c) No complaint may be filed under this Section until the
16 complainant has first notified the respondent of the alleged
17 violation and offered the respondent 48 hours to correct the
18 situation. Provision of notice and the opportunity to correct
19 the situation creates a rebuttable presumption of knowledge
20 under Section 13A-514. After the filing of a complaint under
21 this Section, the parties may agree to follow the mediation
22 process under Section 10-101.1 of this Act. The time periods
23 specified in subdivision (d) (7) of this Section shall be tolled
24 during the time spent in mediation under Section 10-101.1.

25 (d) A telecommunications carrier may file a complaint with

1 the Commission alleging a violation of Section 13A-514 in
2 accordance with this subsection:

3 (1) The complaint shall be filed with the Chief Clerk
4 of the Commission and shall be served in hand upon the
5 respondent, the executive director, and the general
6 counsel of the Commission at the time of the filing.

7 (2) A complaint filed under this subsection shall
8 include a statement that the requirements of subsection (c)
9 have been fulfilled and that the respondent did not correct
10 the situation as requested.

11 (3) Reasonable discovery specific to the issue of the
12 complaint may commence upon filing of the complaint.
13 Requests for discovery must be served in hand and responses
14 to discovery must be provided in hand to the requester
15 within 14 days after a request for discovery is made.

16 (4) An answer and any other responsive pleading to the
17 complaint shall be filed with the Commission and served in
18 hand at the same time upon the complainant, the executive
19 director, and the general counsel of the Commission within
20 7 days after the date on which the complaint is filed.

21 (5) If the answer or responsive pleading raises the
22 issue that the complaint violates subsection (i) of this
23 Section, the complainant may file a reply to such
24 allegation within 3 days after actual service of such
25 answer or responsive pleading. Within 4 days after the time
26 for filing a reply has expired, the hearing officer or

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

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

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

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

1 arbitrator, the Commission shall decide to adopt the
2 decision of the hearing examiner or arbitrator or shall
3 issue its own final order.

4 (e) If the alleged violation has a substantial adverse
5 effect on the ability of the complainant to provide service to
6 customers, the complainant may include in its complaint a
7 request for an order for emergency relief. The Commission,
8 acting through its designated hearing examiner or arbitrator,
9 shall act upon such a request within 2 business days of the
10 filing of the complaint. An order for emergency relief may be
11 granted, without an evidentiary hearing, upon a verified
12 factual showing that the party seeking relief will likely
13 succeed on the merits, that the party will suffer irreparable
14 harm in its ability to serve customers if emergency relief is
15 not granted, and that the order is in the public interest. An
16 order for emergency relief shall include a finding that the
17 requirements of this subsection have been fulfilled and shall
18 specify the directives that must be fulfilled by the respondent
19 and deadlines for meeting those directives. The decision of the
20 hearing examiner or arbitrator to grant or deny emergency
21 relief shall be considered an order of the Commission unless
22 the Commission enters its own order within 2 calendar days of
23 the decision of the hearing examiner or arbitrator. The order
24 for emergency relief may require the responding party to act or
25 refrain from acting so as to protect the provision of
26 competitive service offerings to customers. Any action

1 required by an emergency relief order must be technically
2 feasible and economically reasonable and the respondent must be
3 given a reasonable period of time to comply with the order.

4 (f) The Commission is authorized to obtain outside
5 resources including, but not limited to, arbitrators and
6 consultants for the purposes of the hearings authorized by this
7 Section. Any arbitrator or consultant obtained by the
8 Commission shall be approved by both parties to the hearing.
9 The cost of such outside resources including, but not limited
10 to, arbitrators and consultants shall be borne by the parties.
11 The Commission shall review the bill for reasonableness and
12 assess the parties for reasonable costs dividing the costs
13 according to the resolution of the complaint brought under this
14 Section. Such costs shall be paid by the parties directly to
15 the arbitrators, consultants, and other providers of outside
16 resources within 60 days after receiving notice of the
17 assessments from the Commission. Interest at the statutory rate
18 shall accrue after expiration of the 60-day period. The
19 Commission, arbitrators, consultants, or other providers of
20 outside resources may apply to a court of competent
21 jurisdiction for an order requiring payment.

22 (g) The Commission shall assess the parties under this
23 subsection for all of the Commission's costs of investigation
24 and conduct of the proceedings brought under this Section
25 including, but not limited to, the prorated salaries of staff,
26 attorneys, hearing examiners, and support personnel and

1 including any travel and per diem, directly attributable to the
2 complaint brought pursuant to this Section, but excluding those
3 costs provided for in subsection (f), dividing the costs
4 according to the resolution of the complaint brought under this
5 Section. All assessments made under this subsection shall be
6 paid into the Public Utility Fund within 60 days after
7 receiving notice of the assessments from the Commission.
8 Interest at the statutory rate shall accrue after the
9 expiration of the 60 day period. The Commission is authorized
10 to apply to a court of competent jurisdiction for an order
11 requiring payment.

12 (h) If the Commission determines that there is an imminent
13 threat to competition or to the public interest, the Commission
14 may, notwithstanding any other provision of this Act, seek
15 temporary, preliminary, or permanent injunctive relief from a
16 court of competent jurisdiction either prior to or after the
17 hearing.

18 (i) A party shall not bring or defend a proceeding brought
19 under this Section or assert or controvert an issue in a
20 proceeding brought under this Section, unless there is a
21 non-frivolous basis for doing so. By presenting a pleading,
22 written motion, or other paper in complaint or defense of the
23 actions or inaction of a party under this Section, a party is
24 certifying to the Commission that to the best of that party's
25 knowledge, information, and belief, formed after a reasonable
26 inquiry of the subject matter of the complaint or defense, that

1 the complaint or defense is well grounded in law and fact, and
2 under the circumstances:

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

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

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

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

1 (220 ILCS 5/13A-516 new)

2 Sec. 13A-516. Enforcement remedies for prohibited actions
3 by telecommunications carriers.

4 (a) In addition to any other provision of this Act, all of
5 the following remedies may be applied for violations of Section
6 13A-514:

7 (1) A Commission order directing the violating
8 telecommunications carrier to cease and desist from
9 violating the Act or a Commission order or rule.

10 (2) Notwithstanding any other provision of this Act,
11 for a second and any subsequent violation of Section
12 13A-514 committed by a telecommunications carrier, the
13 Commission may impose penalties of up to \$30,000 or
14 0.00825% of the telecommunications carrier's gross
15 intrastate annual telecommunications revenue, whichever is
16 greater, per violation unless the telecommunications
17 carrier has fewer than 35,000 subscriber access lines, in
18 which case the civil penalty may not exceed \$2,000 per
19 violation. The second and any subsequent violation of
20 Section 13A-514 need not be of the same nature or provision
21 of the Section for a penalty to be imposed. Matters
22 resolved through voluntary mediation pursuant to Section
23 10-101.1 shall not be considered as a violation of Section
24 13A-514 in computing eligibility for imposition of a
25 penalty under this subdivision (a)(2). Each day of a

1 continuing offense shall be treated as a separate violation
2 for purposes of levying any penalty under this Section. The
3 period for which the penalty shall be levied shall commence
4 on the day the telecommunications carrier first violated
5 Section 13A-514 or on the day of the notice provided to the
6 telecommunications carrier pursuant to subsection (c) of
7 Section 13A-515, whichever is later, and shall continue
8 until the telecommunications carrier is in compliance with
9 the Commission order. In assessing a penalty under this
10 subdivision (a) (2), the Commission may consider mitigating
11 factors, including those specified in items (1) through (4)
12 of subsection (a) of Section 13A-304.

13 (3) The Commission shall award damages, attorney's
14 fees, and costs to any telecommunications carrier that was
15 subjected to a violation of Section 13A-514.

16 (b) The Commission may waive penalties imposed under
17 subdivision (a) (2) if it makes a written finding as to its
18 reasons for waiving the penalty. Reasons for waiving a
19 penalty shall include, but not be limited to, technological
20 infeasibility and acts of God.

21 (c) The Commission shall establish by rule procedures for
22 the imposition of remedies under subsection (a) that, at a
23 minimum, provide for notice, hearing and a written order
24 relating to the imposition of remedies.

25 (d) Unless enforcement of an order entered by the
26 Commission under Section 13A-515 otherwise directs or is

1 stayed by the Commission or by an appellate court reviewing
2 the Commission's order, at any time after 30 days from the
3 entry of the order, either the Commission, or the
4 telecommunications carrier found by the Commission to have
5 been subjected to a violation of Section 13A-514, or both,
6 is authorized to petition a court of competent jurisdiction
7 for an order at law or in equity requiring enforcement of
8 the Commission order. The court shall determine (1) whether
9 the Commission entered the order identified in the petition
10 and (2) whether the violating telecommunications carrier
11 has complied with the Commission's order. A certified copy
12 of a Commission order shall be prima facie evidence that
13 the Commission entered the order so certified. Pending the
14 court's resolution of the petition, the court may award
15 temporary or preliminary injunctive relief, or such other
16 equitable relief as may be necessary, to effectively
17 implement and enforce the Commission's order in a timely
18 manner.

19 If after a hearing the court finds that the Commission
20 entered the order identified in the petition and that the
21 violating telecommunications carrier has not complied with the
22 Commission's order, the court shall enter judgment requiring
23 the violating telecommunications carrier to comply with the
24 Commission's order and order such relief at law or in equity as
25 the court deems necessary to effectively implement and enforce
26 the Commission's order in a timely manner. The court shall also

1 award to the petitioner, or petitioners, attorney's fees and
2 costs, which shall be taxed and collected as part of the costs
3 of the case. If the court finds that the violating
4 telecommunications carrier has failed to comply with the timely
5 payment of damages, attorney's fees, or costs ordered by the
6 Commission, the court shall order the violating
7 telecommunications carrier to pay to the telecommunications
8 carrier or carriers awarded the damages, fees, or costs by the
9 Commission additional damages for the sake of example and by
10 way of punishment for the failure to timely comply with the
11 order of the Commission, unless the court finds a reasonable
12 basis for the violating telecommunications carrier's failure
13 to make timely payment according to the Commission's order, in
14 which instance the court shall establish a new date for payment
15 to be made.

16 (e) Payment of damages, attorney's fees, and costs imposed
17 under subsection (a) shall be made within 30 days after
18 issuance of the Commission order imposing the penalties,
19 damages, attorney's fees, or costs, unless otherwise directed
20 by the Commission or a reviewing court under an appeal taken
21 pursuant to Article X. Payment of penalties imposed under
22 subsection (a) shall be made to the Common School Fund within
23 30 days of issuance of the Commission order imposing the
24 penalties.

1 Sec. 13A-519. Fire alarm; discontinuance of service. When
2 a telecommunications carrier initiates a discontinuance of
3 service on a known emergency system or fire alarm system that
4 is required by the local authority to be a dedicated phone line
5 circuit to the central dispatch of the fire department or fire
6 protection district or, if applicable, the police department,
7 the telecommunications carrier shall also transmit a copy of
8 the written notice of discontinuance to that local authority.

9 (220 ILCS 5/13A-601 new)

10 Sec. 13A-601. Application of Article VII. The provisions
11 of Sections 7-101, 7-102, 7-103, 7-104, 7-203, 7-204, 7-205,
12 and 7-206 of this Act are applicable to an Electing Provider
13 offering or providing retail telecommunications service, and
14 the Commission's regulation thereof, except that (1) the
15 approval of contracts and arrangements with affiliated
16 interests required by paragraph (3) of Section 7-101 shall not
17 apply to such telecommunications carriers provided that,
18 except as provided in item (2), those contracts and
19 arrangements shall be filed with the Commission; (2) affiliated
20 interest contracts or arrangements entered into by such
21 telecommunications carriers where the increased obligation
22 thereunder does not exceed the lesser of \$5,000,000 or 5% of
23 such carrier's prior annual revenue from noncompetitive
24 services are not required to be filed with the Commission; and
25 (3) any consent and approval of the Commission required by

1 Section 7-102 is not required for the sale, lease, assignment,
2 or transfer by any Electing Provider of any real property that
3 is not necessary or useful in the performance of its duties to
4 the public.

5 (220 ILCS 5/13A-702 new)

6 Sec. 13A-702. Receipt, transmission, and delivery or
7 conversations, messages or other transmissions. Every
8 telecommunications carrier operating in this State shall
9 receive, transmit, and deliver, without discrimination or
10 delay, the conversations, messages, or other transmissions of
11 every other telecommunications carrier with which a joint rate
12 has been established or with whose line a physical connection
13 may have been made.

14 (220 ILCS 5/13A-703 new)

15 Sec. 13A-703. Program for persons with a hearing or speech
16 disability.

17 (a) The Commission shall design and implement a program
18 whereby each telecommunications carrier providing local
19 exchange service shall provide a telecommunications device
20 capable of servicing the needs of those persons with a hearing
21 or speech disability together with a single party line, at no
22 charge additional to the basic exchange rate, to any subscriber
23 who is certified as having a hearing or speech disability by a
24 licensed physician, speech-language pathologist, audiologist

1 or a qualified State agency and to any subscriber which is an
2 organization serving the needs of those persons with a hearing
3 or speech disability as determined and specified by the
4 Commission pursuant to subsection (d).

5 (b) The Commission shall design and implement a program,
6 whereby each telecommunications carrier providing local
7 exchange service shall provide a telecommunications relay
8 system, using third party intervention to connect those persons
9 having a hearing or speech disability with persons of normal
10 hearing by way of intercommunications devices and the telephone
11 system, making available reasonable access to all phases of
12 public telephone service to persons who have a hearing or
13 speech disability. In order to design a telecommunications
14 relay system which will meet the requirements of those persons
15 with a hearing or speech disability available at a reasonable
16 cost, the Commission shall initiate an investigation and
17 conduct public hearings to determine the most cost-effective
18 method of providing telecommunications relay service to those
19 persons who have a hearing or speech disability when using
20 telecommunications devices and therein solicit the advice,
21 counsel, and physical assistance of Statewide nonprofit
22 consumer organizations that serve persons with hearing or
23 speech disabilities in such hearings and during the development
24 and implementation of the system. The Commission shall phase in
25 this program, on a geographical basis, as soon as is
26 practicable, but no later than June 30, 1990.

1 (c) The Commission shall establish a rate recovery
2 mechanism, authorizing charges in an amount to be determined by
3 the Commission for each line of a subscriber to allow
4 telecommunications carriers providing local exchange service
5 to recover costs as they are incurred under this Section.

6 (d) The Commission shall determine and specify those
7 organizations serving the needs of those persons having a
8 hearing or speech disability that shall receive a
9 telecommunications device and in which offices the equipment
10 shall be installed in the case of an organization having more
11 than one office. For the purposes of this Section,
12 "organizations serving the needs of those persons with hearing
13 or speech disabilities" means centers for independent living as
14 described in Section 12a of the Disabled Persons Rehabilitation
15 Act and not-for-profit organizations whose primary purpose is
16 serving the needs of those persons with hearing or speech
17 disabilities. The Commission shall direct the
18 telecommunications carriers subject to its jurisdiction and
19 this Section to comply with its determinations and
20 specifications in this regard.

21 (e) As used in this Section, the phrase "telecommunications
22 carrier providing local exchange service" includes, without
23 otherwise limiting the meaning of the term, telecommunications
24 carriers which are purely mutual concerns, having no rates or
25 charges for services, but paying the operating expenses by
26 assessment upon the members of such a company and no other

1 person.

2 (220 ILCS 5/13A-704 new)

3 Sec. 13A-704. Billing statement. Each page of a billing
4 statement that sets forth charges assessed against a customer
5 by an Electing Provider for retail telecommunications service
6 shall reflect the telephone number or customer account number
7 to which the charges are being billed. If an Electing Provider
8 offers electronic billing, customers may elect to have their
9 bills sent electronically. Such bills shall be transmitted with
10 instructions for payment. Information sent electronically
11 shall be deemed to satisfy any requirement in this Section that
12 such information be printed or written on a customer bill.
13 Bills may be paid electronically.

14 (220 ILCS 5/13A-705 new)

15 Sec. 13A-705. Telephone directory. Every telephone
16 directory distributed to the general public in this State that
17 lists the calling numbers of telephones, of any telephone
18 exchange located in this State, shall also contain a listing,
19 at no additional charge, of any special calling number assigned
20 to any telecommunication device for the deaf in use within the
21 geographic area of coverage for the directory, unless the
22 telephone company is notified by the telecommunication device
23 subscriber that the subscriber does not wish the TDD number to
24 be listed in the directory. Such listing shall include, but is

1 not limited to, residential, commercial, and governmental
2 numbers with telecommunication device access and shall include
3 a designation if the device is for print or display
4 communication only or if it also accommodates voice
5 transmission. In addition to the aforementioned requirements
6 each telephone directory so distributed shall also contain a
7 listing of any city and county emergency services and any
8 police telecommunication device for the deaf calling numbers in
9 the coverage area within this State that is included in the
10 directory as well as the listing of the Illinois State Police
11 emergency telecommunication device for the deaf calling number
12 in Springfield. This emergency numbers listing shall be
13 preceded by the words "Emergency Assistance for Deaf Persons",
14 which shall be as legible and printed in the same size as all
15 other emergency subheadings on the page; provided, that the
16 provisions of this Section do not apply to those directories
17 distributed solely for business advertising purposes, commonly
18 known as classified directories.

19 (220 ILCS 5/13A-706 new)

20 Sec. 13A-706. Hearing-aid compatible telephones. Except as
21 provided in Section 13A-707 of this Act, all essential
22 telephones, all coin-operated phones and all emergency
23 telephones sold, rented, or distributed by any other means in
24 this State after July 1, 1990 shall be hearing-aid compatible.
25 The provisions of this Section shall not apply to any telephone

1 that is manufactured before July 1, 1989.

2 (220 ILCS 5/13A-707 new)

3 Sec. 13A-707. Exemptions from 13A-706. The following
4 telephones shall be exempt from the requirements of Section
5 13A-706 of this Act: telephones used with public mobile
6 services; telephones used with private radio services; and
7 cordless telephones. The exemption provided in this Section
8 shall not apply with respect to cordless telephones
9 manufactured or imported more than 3 years after September 19,
10 1988. The Commission shall periodically assess the
11 appropriateness of continuing in effect the exemptions
12 provided herein for public mobile service and private radio
13 service telephones and report their findings to the General
14 Assembly.

15 (220 ILCS 5/13A-709 new)

16 Sec. 13A-709. Orders of correction.

17 (a) A telecommunications carrier shall comply with orders
18 of correction issued by the Department of Public Health under
19 Section 5 of the Illinois Plumbing License Law.

20 (b) Upon receiving notification from the Department of
21 Public Health that a telecommunications carrier has failed to
22 comply with an order of correction, the Illinois Commerce
23 Commission shall enforce the order.

24 (c) The good faith compliance by a telecommunications

1 carrier with an order of the Department of Public Health or
2 Illinois Commerce Commission to terminate service pursuant to
3 Section 5 of the Illinois Plumbing License Law shall constitute
4 a complete defense to any civil action brought against the
5 telecommunications carrier arising from the termination of
6 service.

7 (220 ILCS 5/13A-713 new)

8 Sec. 13A-713. Consumer complaint resolution process.

9 (a) It is the intent of the General Assembly that consumer
10 complaints against telecommunications carriers shall be
11 concluded as expeditiously as possible consistent with the
12 rights of the parties thereto to the due process of law and
13 protection of the public interest.

14 (b) The Commission shall promulgate rules that permit
15 parties to resolve disputes through mediation. A consumer may
16 request mediation upon completion of the Commission's informal
17 complaint process and prior to the initiation of a formal
18 complaint as described in Commission rules.

19 (c) A residential consumer or business consumer with fewer
20 than 20 lines shall have the right to request mediation for
21 resolution of a dispute with a telecommunications carrier. The
22 carrier shall be required to participate in mediation at the
23 consumer's request.

24 (d) The Commission may retain the services of an
25 independent neutral mediator or trained Commission staff to

1 facilitate resolution of the consumer dispute. The mediation
2 process must be completed no later than 45 days after the
3 consumer requests mediation.

4 (e) If the parties reach agreement, the agreement shall be
5 reduced to writing at the conclusion of the mediation. The
6 writing shall contain mutual conditions, payment arrangements,
7 or other terms that resolve the dispute in its entirety. If the
8 parties are unable to reach agreement or after 45 days,
9 whichever occurs first, the consumer may file a formal
10 complaint with the Commission as described in Commission rules.

11 (f) If either the consumer or the carrier fails to abide by
12 the terms of the settlement agreement, either party may
13 exercise any rights it may have as specified in the terms of
14 the agreement or as provided in Commission rules.

15 (g) All notes, writings and settlement discussions related
16 to the mediation shall be exempt from discovery and shall be
17 inadmissible in any agency or court proceeding.

18 (220 ILCS 5/13A-801 new)

19 Sec. 13A-801. Incumbent local exchange carrier
20 obligations.

21 (a) This Section provides additional State requirements
22 contemplated by, but not inconsistent with, Section 261(c) of
23 the federal Telecommunications Act of 1996, and not preempted
24 by orders of the Federal Communications Commission. A
25 telecommunications carrier not subject to regulation under an

1 alternative regulation plan pursuant to Section 13A-506.1 of
2 this Act shall not be subject to the provisions of this
3 Section, to the extent that this Section imposes requirements
4 or obligations upon the telecommunications carrier that exceed
5 or are more stringent than those obligations imposed by Section
6 251 of the federal Telecommunications Act of 1996 and
7 regulations promulgated thereunder.

8 An incumbent local exchange carrier shall provide a
9 requesting telecommunications carrier with interconnection,
10 collocation, network elements, and access to operations
11 support systems on just, reasonable, and nondiscriminatory
12 rates, terms, and conditions to enable the provision of any and
13 all existing and new telecommunications services within the
14 LATA, including, but not limited to, local exchange and
15 exchange access. The Commission shall require the incumbent
16 local exchange carrier to provide interconnection,
17 collocation, and network elements in any manner technically
18 feasible to the fullest extent possible to implement the
19 maximum development of competitive telecommunications services
20 offerings. As used in this Section, to the extent that
21 interconnection, collocation, or network elements have been
22 deployed for or by the incumbent local exchange carrier or one
23 of its wireline local exchange affiliates in any jurisdiction,
24 it shall be presumed that such is technically feasible in
25 Illinois.

26 (b) Interconnection.

1 (1) An incumbent local exchange carrier shall provide
2 for the facilities and equipment of any requesting
3 telecommunications carrier's interconnection with the
4 incumbent local exchange carrier's network on just,
5 reasonable, and nondiscriminatory rates, terms, and
6 conditions:

7 (A) for the transmission and routing of local
8 exchange, and exchange access telecommunications
9 services;

10 (B) at any technically feasible point within the
11 incumbent local exchange carrier's network; however,
12 the incumbent local exchange carrier may not require
13 the requesting carrier to interconnect at more than one
14 technically feasible point within a LATA; and

15 (C) that is at least equal in quality and
16 functionality to that provided by the incumbent local
17 exchange carrier to itself or to any subsidiary,
18 affiliate, or any other party to which the incumbent
19 local exchange carrier provides interconnection.

20 (2) An incumbent local exchange carrier shall make
21 available to any requesting telecommunications carrier, to
22 the extent technically feasible, those services,
23 facilities, or interconnection agreements or arrangements
24 that the incumbent local exchange carrier or any of its
25 incumbent local exchange subsidiaries or affiliates offers
26 in another state under the terms and conditions, but not

1 the stated rates, negotiated pursuant to Section 252 of the
2 federal Telecommunications Act of 1996. Rates shall be
3 established in accordance with the requirements of
4 subsection (g) of this Section. An incumbent local exchange
5 carrier shall also make available to any requesting
6 telecommunications carrier, to the extent technically
7 feasible, and subject to the unbundling provisions of
8 Section 251(d) (2) of the federal Telecommunications Act of
9 1996, those unbundled network element or interconnection
10 agreements or arrangements that a local exchange carrier
11 affiliate of the incumbent local exchange carrier obtains
12 in another state from the incumbent local exchange carrier
13 in that state, under the terms and conditions, but not the
14 stated rates, obtained through negotiation, or through an
15 arbitration initiated by the affiliate, pursuant to
16 Section 252 of the federal Telecommunications Act of 1996.
17 Rates shall be established in accordance with the
18 requirements of subsection (g) of this Section.

19 (c) Collocation. An incumbent local exchange carrier shall
20 provide for physical or virtual collocation of any type of
21 equipment for interconnection or access to network elements at
22 the premises of the incumbent local exchange carrier on just,
23 reasonable, and nondiscriminatory rates, terms, and
24 conditions. The equipment shall include, but is not limited to,
25 optical transmission equipment, multiplexers, remote switching
26 modules, and cross-connects between the facilities or

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

19 (d) Network elements. The incumbent local exchange carrier
20 shall provide to any requesting telecommunications carrier,
21 for the provision of an existing or a new telecommunications
22 service, nondiscriminatory access to network elements on any
23 unbundled or bundled basis, as requested, at any technically
24 feasible point on just, reasonable, and nondiscriminatory
25 rates, terms, and conditions.

26 (1) An incumbent local exchange carrier shall provide

1 unbundled network elements in a manner that allows
2 requesting telecommunications carriers to combine those
3 network elements to provide a telecommunications service.

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

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

21 The incumbent local exchange carrier shall be entitled to
22 recover from the requesting telecommunications carrier any
23 just and reasonable special construction costs incurred in
24 combining such unbundled network elements (i) if such costs are
25 not already included in the established price of providing the
26 network elements, (ii) if the incumbent local exchange carrier

1 charges such costs to its retail telecommunications end users,
2 and (iii) if fully disclosed in advance to the requesting
3 telecommunications carrier. The Commission shall determine
4 whether the incumbent local exchange carrier is entitled to any
5 special construction costs if there is a dispute between the
6 incumbent local exchange carrier and the requesting
7 telecommunications carrier under this subdivision of this
8 Section of this Act.

9 (4) A telecommunications carrier may use a network
10 elements platform consisting solely of combined network
11 elements of the incumbent local exchange carrier to provide
12 end to end telecommunications service for the provision of
13 existing and new local exchange, interexchange that
14 includes local, local toll, and intraLATA toll, and
15 exchange access telecommunications services within the
16 LATA to its end users or payphone service providers without
17 the requesting telecommunications carrier's provision or
18 use of any other facilities or functionalities.

19 (5) The Commission shall establish maximum time
20 periods for the incumbent local exchange carrier's
21 provision of network elements. The maximum time period
22 shall be no longer than the time period for the incumbent
23 local exchange carrier's provision of comparable retail
24 telecommunications services utilizing those network
25 elements. The Commission may establish a maximum time
26 period for a particular network element that is shorter

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

24 In measuring the incumbent local exchange carrier's actual
25 performance, the Commission shall ensure that occurrences
26 beyond the control of the incumbent local exchange carrier that

1 adversely affect the incumbent local exchange carrier's
2 performance are excluded when determining actual performance
3 levels. Such occurrences shall be determined by the Commission,
4 but at a minimum must include work stoppage or other labor
5 actions and acts of war. Exclusions shall also be made for
6 performance that is governed by agreements approved by the
7 Commission and containing timeframes for the same or similar
8 measures or for when a requesting telecommunications carrier
9 requests a longer time interval.

10 (6) When a telecommunications carrier requests a
11 network elements platform referred to in subdivision
12 (d)(4) of this Section, without the need for field work
13 outside of the central office, for an end user that has
14 existing local exchange telecommunications service
15 provided by an incumbent local exchange carrier, or by
16 another telecommunications carrier through the incumbent
17 local exchange carrier's network elements platform, unless
18 otherwise agreed by the telecommunications carriers, the
19 incumbent local exchange carrier shall provide the
20 requesting telecommunications carrier with the requested
21 network elements platform within 3 business days for at
22 least 95% of the requests for each requesting
23 telecommunications carrier for each month. A requesting
24 telecommunications carrier may order the network elements
25 platform as is for an end user that has such existing local
26 exchange service without changing any of the features

1 previously selected by the end user. The incumbent local
2 exchange carrier shall provide the requested network
3 elements platform without any disruption to the end user's
4 services.

5 Absent a contrary agreement between the telecommunications
6 carriers entered into after July 1, 2001, as of 12:01 a.m. on
7 the third business day after placing the order for a network
8 elements platform, the requesting telecommunications carrier
9 shall be the presubscribed primary local exchange carrier for
10 that end user line and shall be entitled to receive, or to
11 direct the disposition of, all revenues for all services
12 utilizing the network elements in the platform, unless it is
13 established that the end user of the existing local exchange
14 service did not authorize the requesting telecommunications
15 carrier to make the request.

16 (e) Operations support systems. The Commission shall
17 establish minimum standards with just, reasonable, and
18 nondiscriminatory rates, terms, and conditions for the
19 preordering, ordering, provisioning, maintenance and repair,
20 and billing functions of the incumbent local exchange carrier's
21 operations support systems provided to other
22 telecommunications carriers.

23 (f) Resale. An incumbent local exchange carrier shall offer
24 all retail telecommunications services, that the incumbent
25 local exchange carrier provides at retail to subscribers who
26 are not telecommunications carriers, within the LATA, together

1 with each applicable optional feature or functionality,
2 subject to resale at wholesale rates without imposing any
3 unreasonable or discriminatory conditions or limitations.
4 Wholesale rates shall be based on the retail rates charged to
5 end users for the telecommunications service requested,
6 excluding the portion thereof attributable to any marketing,
7 billing, collection, and other costs avoided by the local
8 exchange carrier. The Commission may determine under Article IX
9 of this Act that certain noncompetitive services, together with
10 each applicable optional feature or functionality, that are
11 offered to residence customers under different rates, charges,
12 terms, or conditions than to other customers should not be
13 subject to resale under the rates, charges, terms, or
14 conditions available only to residence customers.

15 (g) Cost based rates. Interconnection, collocation,
16 network elements, and operations support systems shall be
17 provided by the incumbent local exchange carrier to requesting
18 telecommunications carriers at cost based rates. The immediate
19 implementation and provisioning of interconnection,
20 collocation, network elements, and operations support systems
21 shall not be delayed due to any lack of determination by the
22 Commission as to the cost based rates. When cost based rates
23 have not been established, within 30 days after the filing of a
24 petition for the setting of interim rates, or after the
25 Commission's own motion, the Commission shall provide for
26 interim rates that shall remain in full force and effect until

1 the cost based rate determination is made, or the interim rate
2 is modified, by the Commission.

3 (h) Rural exemption. This Section does not apply to certain
4 rural telephone companies as described in 47 U.S.C. 251(f).

5 (i) Schedule of rates. A telecommunications carrier may
6 request the incumbent local exchange carrier to provide a
7 schedule of rates listing each of the rate elements of the
8 incumbent local exchange carrier that pertains to a proposed
9 order identified by the requesting telecommunications carrier
10 for any of the matters covered in this Section. The incumbent
11 local exchange carrier shall deliver the requested schedule of
12 rates to the requesting telecommunications carrier within 2
13 business days for 95% of the requests for each requesting
14 carrier.

15 (j) Special access circuits. Other than as provided in
16 subdivision (d)(4) of this Section for the network elements
17 platform described in that subdivision, nothing in this
18 amendatory Act of the 96th General Assembly is intended to
19 require or prohibit the substitution of switched or special
20 access services by or with a combination of network elements
21 nor address the Illinois Commerce Commission's jurisdiction or
22 authority in this area.

23 (k) The Commission shall determine any matters in dispute
24 between the incumbent local exchange carrier and the requesting
25 carrier pursuant to Section 13A-515 of this Act.

1 (220 ILCS 5/13A-804 new)

2 Sec. 13A-804. Broadband investment. Increased investment
3 into broadband infrastructure is critical to the economic
4 development of this State and a key component to the retention
5 of existing jobs and the creation of new jobs. The removal of
6 regulatory uncertainty will attract greater private-sector
7 investment in broadband infrastructure. Accordingly, except to
8 the extent permitted by and consistent with federal law, the
9 regulations of the Federal Communications Commission, this
10 Section, or Article XXI or XXXII of this Act, the Commission
11 shall have no jurisdiction or authority to regulate the rates,
12 terms, conditions, quality of service, availability,
13 classification, or any other aspect of the service regarding
14 broadband services; Internet Protocol enabled services,
15 including Interconnected VoIP service, as defined in 47 CFR
16 Section 9.3; information services, as defined in 47 U.S.C.
17 153(20); wireless services, including, but not limited to,
18 public mobile services, private radio service, or commercial
19 mobile service, as defined in 47 U.S.C. 332 (except the
20 Commission shall have the limited authority to certify such
21 wireless carriers to provide telecommunications services in
22 Illinois and to certify such wireless carriers as eligible
23 telecommunications carriers); or any service not commercially
24 available on the effective date of this amendatory Act of the
25 96th General Assembly.

1 (220 ILCS 5/13A-900 new)

2 Sec. 13A-900. Authority to serve as 9-1-1 system provider;
3 rules.

4 (a) The General Assembly finds that it is necessary to
5 require the certification of 9-1-1 system providers to ensure
6 the safety of the lives and property of Illinoisans and
7 Illinois businesses, and to otherwise protect and promote the
8 public safety, health, and welfare of the citizens of this
9 State and their property.

10 (b) For purposes of this Section:

11 "9-1-1 system" has the same meaning as that term is defined
12 in Section 2.19 of the Emergency Telephone System Act.

13 "9-1-1 system provider" means any person, corporation,
14 limited liability company, partnership, sole proprietorship,
15 or entity of any description whatever that acts as a system
16 provider within the meaning of Section 2.18 of the Emergency
17 Telephone System Act.

18 "Emergency Telephone System Board" has the same meaning as
19 that term is defined in Sections 2.11 and 15.4 of the Emergency
20 Telephone System Act.

21 "Public safety agency personnel" means personnel employed
22 by a public safety agency, as that term is defined in Section
23 2.02 of the Emergency Telephone System Act, whose
24 responsibilities include responding to requests for emergency
25 services.

26 (c) Except as otherwise provided in this Section, beginning

1 July 1, 2010, it is unlawful for any 9-1-1 system provider to
2 offer or provide or seek to offer or provide to any emergency
3 telephone system board or 9-1-1 system, or agent,
4 representative, or designee thereof, any network and database
5 service used or intended to be used by any emergency telephone
6 system board or 9-1-1 system for the purpose of answering,
7 transferring, or relaying requests for emergency services, or
8 dispatching public safety agency personnel in response to
9 requests for emergency services, unless the 9-1-1 system
10 provider has applied for and received a Certificate of 9-1-1
11 System Provider Authority from the Commission. The Commission
12 shall approve an application for a Certificate of 9-1-1 System
13 Provider Authority upon a showing by the applicant, and a
14 finding by the Commission, after notice and hearing, that the
15 applicant possesses sufficient technical, financial, and
16 managerial resources and abilities to provide network service
17 and database services that it seeks authority to provide in its
18 application for service authority, in a safe, continuous, and
19 uninterrupted manner.

20 (d) No incumbent local exchange carrier that provides, as
21 of the effective date of this amendatory Act of the 96th
22 General Assembly, any 9-1-1 network and 9-1-1 database service
23 used or intended to be used by any Emergency Telephone System
24 Board or 9-1-1 system, shall be required to obtain a
25 Certificate of 9-1-1 System Provider Authority under this
26 Section. No entity that possesses, as of the effective date of

1 this amendatory Act of the 96th General Assembly, a Certificate
2 of Service Authority and provides 9-1-1 network and 9-1-1
3 database services to any incumbent local exchange carrier as of
4 the effective date of this amendatory Act of the 96th General
5 Assembly shall be required to obtain a Certificate of 9-1-1
6 System Provider Authority under this Section.

7 (e) Any and all enforcement authority granted to the
8 Commission under this Section shall apply exclusively to 9-1-1
9 system providers granted a Certificate of Service Authority
10 under this Section and shall not apply to incumbent local
11 exchange carriers that are providing 9-1-1 service as of the
12 effective date of this amendatory Act of the 96th General
13 Assembly.

14 (220 ILCS 5/13A-901 new)

15 Sec. 13A-901. Operator Service Provider.

16 (a) For the purposes of this Section:

17 (1) "Operator service provider" means every
18 telecommunications carrier that provides operator services
19 or any other person or entity that the Commission
20 determines is providing operator services.

21 (2) "Aggregator" means any person or entity that is not
22 an operator service provider and that in the ordinary
23 course of its operations makes telephones available to the
24 public or to transient users of its premises including, but
25 not limited to, a hotel, motel, hospital, or university for

1 telephone calls between points within this State that are
2 specified by the user using an operator service provider.

3 (3) "Operator services" means any telecommunications
4 service that includes, as a component, any automatic or
5 live assistance to a consumer to arrange for billing or
6 completion, or both, of a telephone call between points
7 within this State that are specified by the user through a
8 method other than:

9 (A) automatic completion with billing to the
10 telephone from which the call originated;

11 (B) completion through an access code or a
12 proprietary account number used by the consumer, with
13 billing to an account previously established with the
14 carrier by the consumer; or

15 (C) completion in association with directory
16 assistance services.

17 (b) The Commission shall, by rule or order, adopt and
18 enforce operating requirements for the provision of
19 operator-assisted services. The rules shall apply to operator
20 service providers and to aggregators. The rules shall be
21 compatible with the rules adopted by the Federal Communications
22 Commission under the federal Telephone Operator Consumer
23 Services Improvement Act of 1990. These requirements shall
24 address, but not necessarily be limited to, the following:

25 (1) oral and written notification of the identity of
26 the operator service provider and the availability of

1 information regarding operator service provider rates,
2 collection methods, and complaint resolution methods;

3 (2) restrictions on billing and charges for operator
4 services;

5 (3) restrictions on "call splashing" as that term is
6 defined in 47 C.F.R. Section 64.708;

7 (4) access to other telecommunications carriers by the
8 use of access codes including, but not limited to 800, 888,
9 950, and 10XXX numbers;

10 (5) the appropriate routing and handling of emergency
11 calls;

12 (6) the enforcement of these rules through tariffs for
13 operator services and by a requirement that operator
14 service providers withhold payment of compensation to
15 aggregators that have been found to be noncomplying by the
16 Commission.

17 (c) The Commission shall adopt any rule necessary to make
18 rules previously adopted under this Section compatible with the
19 rules of the Federal Communications Commission no later than
20 one year after the effective date of this amendatory Act of
21 1993.

22 (d) A violation of any rule adopted by the Commission under
23 subsection (b) is a business offense subject to a fine of not
24 less than \$1,000 nor more than \$5,000. In addition, the
25 Commission may, after notice and hearing, order any
26 telecommunications carrier to terminate service to any

1 aggregator found to have violated any rule.

2 (220 ILCS 5/13A-902 new)

3 Sec. 13A-902. Authorization and verification of a
4 subscriber's change in telecommunications carrier.

5 (a) Definitions; scope.

6 (1) "Submitting carrier" means any telecommunications
7 carrier that requests on behalf of a subscriber that the
8 subscriber's telecommunications carrier be changed and
9 seeks to provide retail services to the end user
10 subscriber.

11 (2) "Executing carrier" means any telecommunications
12 carrier that effects a request that a subscriber's
13 telecommunications carrier be changed.

14 (3) "Authorized carrier" means any telecommunications
15 carrier that submits a change, on behalf of a subscriber,
16 in the subscriber's selection of a provider of
17 telecommunications service with the subscriber's
18 authorization verified in accordance with the procedures
19 specified in this Section.

20 (4) "Unauthorized carrier" means any
21 telecommunications carrier that submits a change, on
22 behalf of a subscriber, in the subscriber's selection of a
23 provider of telecommunications service but fails to obtain
24 the subscriber's authorization verified in accordance with
25 the procedures specified in this Section.

1 (5) "Unauthorized change" means a change in a
2 subscriber's selection of a provider of telecommunications
3 service that was made without authorization verified in
4 accordance with the verification procedures specified in
5 this Section.

6 (6) "Subscriber" means:

7 (A) the party identified in the account records of
8 a common carrier as responsible for payment of the
9 telephone bill;

10 (B) any adult person authorized by such party to
11 change telecommunications services or to charge
12 services to the account; or

13 (C) any person contractually or otherwise lawfully
14 authorized to represent such party.

15 This Section does not apply to retail business subscribers
16 served by more than 20 lines.

17 (b) Authorization from the subscriber. "Authorization"
18 means an express, affirmative act by a subscriber agreeing to
19 the change in the subscriber's telecommunications carrier to
20 another carrier. A subscriber's telecommunications service
21 shall be provided by the telecommunications carrier selected by
22 the subscriber.

23 (c) Authorization and verification of orders for
24 telecommunications service.

25 (1) No telecommunications carrier shall submit or
26 execute a change on behalf of a subscriber in the

1 subscriber's selection of a provider of telecommunications
2 service except in accordance with the procedures
3 prescribed in this subsection.

4 (2) No submitting carrier shall submit a change on the
5 behalf of a subscriber in the subscriber's selection of a
6 provider of telecommunications service prior to obtaining:

7 (A) authorization from the subscriber; and

8 (B) verification of that authorization in
9 accordance with the procedures prescribed in this
10 Section. The submitting carrier shall maintain and
11 preserve records of verification of subscriber
12 authorization for a minimum period of 2 years after
13 obtaining such verification.

14 (3) An executing carrier shall not verify the
15 submission of a change in a subscriber's selection of a
16 provider of telecommunications service received from a
17 submitting carrier. For an executing carrier, compliance
18 with the procedures described in this Section shall be
19 defined as prompt execution, without any unreasonable
20 delay, of changes that have been verified by a submitting
21 carrier.

22 (4) Commercial mobile radio services (CMRS) providers
23 shall be excluded from the verification requirements of
24 this Section as long as they are not required to provide
25 equal access to common carriers for the provision of
26 telephone toll services, in accordance with 47 U.S.C.

1 332 (c) (8) .

2 (5) Where a telecommunications carrier is selling more
3 than one type of telecommunications service (e.g., local
4 exchange, intraLATA/intrastate toll, interLATA/interstate
5 toll, and international toll), that carrier must obtain
6 separate authorization from the subscriber for each
7 service sold, although the authorizations may be made
8 within the same solicitation. Each authorization must be
9 verified separately from any other authorizations obtained
10 in the same solicitation. Each authorization must be
11 verified in accordance with the verification procedures
12 prescribed in this Section.

13 (6) No telecommunications carrier shall submit a
14 preferred carrier change order unless and until the order
15 has been confirmed in accordance with one of the following
16 procedures:

17 (A) The telecommunications carrier has obtained
18 the subscriber's written or electronically signed
19 authorization in a form that meets the requirements of
20 subsection (d).

21 (B) The telecommunications carrier has obtained
22 the subscriber's electronic authorization to submit
23 the preferred carrier change order. Such authorization
24 must be placed from the telephone number or numbers on
25 which the preferred carrier is to be changed and must
26 confirm the information in subsections (b) and (c) of

1 this Section. Telecommunications carriers electing to
2 confirm sales electronically shall establish one or
3 more toll-free telephone numbers exclusively for that
4 purpose. Calls to the toll-free telephone numbers must
5 connect a subscriber to a voice response unit, or
6 similar mechanism, that records the required
7 information regarding the preferred carrier change,
8 including automatically recording the originating
9 automatic number identification.

10 (C) An appropriately qualified independent third
11 party has obtained, in accordance with the procedures
12 set forth in paragraphs (7) through (10) of this
13 subsection, the subscriber's oral authorization to
14 submit the preferred carrier change order that
15 confirms and includes appropriate verification data.
16 The independent third party must not be owned, managed,
17 controlled, or directed by the carrier or the carrier's
18 marketing agent; must not have any financial incentive
19 to confirm preferred carrier change orders for the
20 carrier or the carrier's marketing agent; and must
21 operate in a location physically separate from the
22 carrier or the carrier's marketing agent.

23 (7) Methods of third party verification. Automated
24 third party verification systems and three-way conference
25 calls may be used for verification purposes so long as the
26 requirements of paragraphs (8) through (10) of this

1 subsection are satisfied.

2 (8) Carrier initiation of third party verification. A
3 carrier or a carrier's sales representative initiating a
4 three-way conference call or a call through an automated
5 verification system must drop off the call once the
6 three-way connection has been established.

7 (9) Requirements for content and format of third party
8 verification. All third party verification methods shall
9 elicit, at a minimum, the identity of the subscriber;
10 confirmation that the person on the call is authorized to
11 make the carrier change; confirmation that the person on
12 the call wants to make the carrier change; the names of the
13 carriers affected by the change; the telephone numbers to
14 be switched; and the types of service involved. Third party
15 verifiers may not market the carrier's services by
16 providing additional information, including information
17 regarding preferred carrier freeze procedures.

18 (10) Other requirements for third party verification.
19 All third party verifications shall be conducted in the
20 same language that was used in the underlying sales
21 transaction and shall be recorded in their entirety. In
22 accordance with the procedures set forth in paragraph
23 (2)(B) of this subsection, submitting carriers shall
24 maintain and preserve audio records of verification of
25 subscriber authorization for a minimum period of 2 years
26 after obtaining such verification. Automated systems must

1 provide consumers with an option to speak with a live
2 person at any time during the call.

3 (11) Telecommunications carriers must provide
4 subscribers the option of using one of the authorization
5 and verification procedures specified in paragraph (6) of
6 this subsection in addition to an electronically signed
7 authorization and verification procedure under paragraph
8 (6) (A) of this subsection.

9 (d) Letter of agency form and content.

10 (1) A telecommunications carrier may use a written or
11 electronically signed letter of agency to obtain
12 authorization or verification, or both, of a subscriber's
13 request to change his or her preferred carrier selection. A
14 letter of agency that does not conform with this Section is
15 invalid for purposes of this Section.

16 (2) The letter of agency shall be a separate document
17 (or an easily separable document) or located on a separate
18 screen or webpage containing only the authorizing language
19 described in paragraph (5) of this subsection having the
20 sole purpose of authorizing a telecommunications carrier
21 to initiate a preferred carrier change. The letter of
22 agency must be signed and dated by the subscriber to the
23 telephone line or lines requesting the preferred carrier
24 change.

25 (3) The letter of agency shall not be combined on the
26 same document, screen, or webpage with inducements of any

1 kind.

2 (4) Notwithstanding paragraphs (2) and (3) of this
3 subsection, the letter of agency may be combined with
4 checks that contain only the required letter of agency
5 language as prescribed in paragraph (5) of this subsection
6 and the necessary information to make the check a
7 negotiable instrument. The letter of agency check shall not
8 contain any promotional language or material. The letter of
9 agency check shall contain in easily readable, bold-face
10 type on the front of the check, a notice that the
11 subscriber is authorizing a preferred carrier change by
12 signing the check. The letter of agency language shall be
13 placed near the signature line on the back of the check.

14 (5) At a minimum, the letter of agency must be printed
15 with a type of sufficient size and readability to be
16 clearly legible and must contain clear and unambiguous
17 language that confirms:

18 (A) The subscriber's billing name and address and
19 each telephone number to be covered by the preferred
20 carrier change order;

21 (B) The decision to change the preferred carrier
22 from the current telecommunications carrier to the
23 soliciting telecommunications carrier;

24 (C) That the subscriber designates (insert the
25 name of the submitting carrier) to act as the
26 subscriber's agent for the preferred carrier change;

1 (D) That the subscriber understands that only one
2 telecommunications carrier may be designated as the
3 subscriber's interstate or interLATA preferred
4 interexchange carrier for any one telephone number. To
5 the extent that a jurisdiction allows the selection of
6 additional preferred carriers (e. g., local exchange,
7 intraLATA/intrastate toll, interLATA/interstate toll,
8 or international interexchange) the letter of agency
9 must contain separate statements regarding those
10 choices, although a separate letter of agency for each
11 choice is not necessary; and

12 (E) That the subscriber may consult with the
13 carrier as to whether a fee will apply to the change in
14 the subscriber's preferred carrier.

15 (6) Any carrier designated in a letter of agency as a
16 preferred carrier must be the carrier directly setting the
17 rates for the subscriber.

18 (7) Letters of agency shall not suggest or require that
19 a subscriber take some action in order to retain the
20 subscriber's current telecommunications carrier.

21 (8) If any portion of a letter of agency is translated
22 into another language then all portions of the letter of
23 agency must be translated into that language. Every letter
24 of agency must be translated into the same language as any
25 promotional materials, oral descriptions, or instructions
26 provided with the letter of agency.

1 (9) Letters of agency submitted with an electronically
2 signed authorization must include the consumer disclosures
3 required by Section 101(c) of the Electronic Signatures in
4 Global and National Commerce Act.

5 (10) A telecommunications carrier shall submit a
6 preferred carrier change order on behalf of a subscriber
7 within no more than 60 days after obtaining a written or
8 electronically signed letter of agency.

9 (11) If a telecommunications carrier uses a letter of
10 agency, the carrier shall send a letter to the subscriber
11 using first class mail, postage prepaid, no later than 10
12 days after the telecommunications carrier submitting the
13 change in the subscriber's telecommunications carrier is
14 on notice that the change has occurred. The letter must
15 inform the subscriber of the details of the
16 telecommunications carrier change and provide the
17 subscriber with a toll free number to call should the
18 subscriber wish to cancel the change.

19 (e) A switch in a subscriber's selection of a provider of
20 telecommunications service that complies with the rules
21 promulgated by the Federal Communications Commission and any
22 amendments thereto shall be deemed to be in compliance with the
23 provisions of this Section.

24 (f) The Commission shall promulgate any rules necessary to
25 administer this Section. The rules promulgated under this
26 Section shall comport with the rules, if any, promulgated by

1 the Attorney General pursuant to the Consumer Fraud and
2 Deceptive Business Practices Act [FN2] and with any rules
3 promulgated by the Federal Communications Commission.

4 (g) Complaints may be filed with the Commission under this
5 Section by a subscriber whose telecommunications service has
6 been provided by an unauthorized telecommunications carrier as
7 a result of an unreasonable delay, by a subscriber whose
8 telecommunications carrier has been changed to another
9 telecommunications carrier in a manner not in compliance with
10 this Section, by a subscriber's authorized telecommunications
11 carrier that has been removed as a subscriber's
12 telecommunications carrier in a manner not in compliance with
13 this Section, by a subscriber's authorized submitting carrier
14 whose change order was delayed unreasonably, or by the
15 Commission on its own motion. Upon filing of the complaint, the
16 parties may mutually agree to submit the complaint to the
17 Commission's established mediation process. Remedies in the
18 mediation process may include, but shall not be limited to, the
19 remedies set forth in this subsection. In its discretion, the
20 Commission may deny the availability of the mediation process
21 and submit the complaint to hearings. If the complaint is not
22 submitted to mediation or if no agreement is reached during the
23 mediation process, hearings shall be held on the complaint. If,
24 after notice and hearing, the Commission finds that a
25 telecommunications carrier has violated this Section or a rule
26 promulgated under this Section, the Commission may in its

1 discretion do any one or more of the following:

2 (1) Require the violating telecommunications carrier
3 to refund to the subscriber all fees and charges collected
4 from the subscriber for services up to the time the
5 subscriber receives written notice of the fact that the
6 violating carrier is providing telecommunications service
7 to the subscriber, including notice on the subscriber's
8 bill. For unreasonable delays wherein telecommunications
9 service is provided by an unauthorized carrier, the
10 Commission may require the violating carrier to refund to
11 the subscriber all fees and charges collected from the
12 subscriber during the unreasonable delay. The Commission
13 may order the remedial action outlined in this subsection
14 only to the extent that the same remedial action is allowed
15 pursuant to rules or regulations promulgated by the Federal
16 Communications Commission.

17 (2) Require the violating telecommunications carrier
18 to refund to the subscriber charges collected in excess of
19 those that would have been charged by the subscriber's
20 authorized telecommunications carrier.

21 (3) Require the violating telecommunications carrier
22 to pay to the subscriber's authorized telecommunications
23 carrier the amount the authorized telecommunications
24 carrier would have collected for the telecommunications
25 service. The Commission is authorized to reduce this
26 payment by any amount already paid by the violating

1 telecommunications carrier to the subscriber's authorized
2 telecommunications carrier for those telecommunications
3 services.

4 (4) Require the violating telecommunications carrier
5 to pay a fine of up to \$1,000 into the Public Utility Fund
6 for each repeated and intentional violation of this
7 Section.

8 (5) Issue a cease and desist order.

9 (6) For a pattern of violation of this Section or for
10 intentionally violating a cease and desist order, revoke
11 the violating telecommunications carrier's certificate of
12 service authority.

13 (220 ILCS 5/13A-903 new)

14 Sec. 13A-903. Authorization, verification, or notification
15 and dispute resolution for covered product and service charges
16 on the telephone bill.

17 (a) Definitions. As used in this Section:

18 (1) "Subscriber" means a telecommunications carrier's
19 retail business customer served by not more than 20 lines
20 or a retail residential customer.

21 (2) "Telecommunications carrier" has the meaning given
22 in Section 13A-202 of the Public Utilities Act and includes
23 agents and employees of a telecommunications carrier,
24 except that "telecommunications carrier" does not include
25 a provider of commercial mobile radio services (as defined

1 by 47 U.S.C. 332(d)(1)).

2 (b) Applicability of Section. This Section does not apply
3 to:

4 (1) changes in a subscriber's local exchange
5 telecommunications service or interexchange
6 telecommunications service;

7 (2) message telecommunications charges that are
8 initiated by dialing 1+, 0+, 0-, 1010XXX, or collect calls
9 and charges for video services if the service provider has
10 the necessary call detail record to establish the billing
11 for the call or service; a

12 (3) telecommunications services available on a
13 subscriber's line when the subscriber activates and pays
14 for the services on a per use basis.

15 (c) Requirements for billing authorized charges. A
16 telecommunications carrier shall meet all of the following
17 requirements before submitting charges for any product or
18 service to be billed on any subscriber's telephone bill:

19 (1) Inform the subscriber. The telecommunications
20 carrier offering the product or service must thoroughly
21 inform the subscriber of the product or service being
22 offered, including all associated charges, and explicitly
23 inform the subscriber that the associated charges for the
24 product or service will appear on the subscriber's
25 telephone bill.

26 (2) Obtain subscriber authorization. The subscriber

1 (iii) does not derive commissions or
2 compensation based upon the number of sales
3 confirmed.

4 (B) The third-party verification agent shall
5 state, and shall obtain the subscriber's
6 acknowledgment of, the following disclosures:

7 (i) the subscriber's name, address, and the
8 telephone numbers of all telephone lines that will
9 be charged for the product or service of the
10 telecommunications carrier;

11 (ii) that the person speaking to the third
12 party verification agent is in fact the
13 subscriber;

14 (iii) that the subscriber wishes to purchase
15 the product or service of the telecommunications
16 carrier and is agreeing to do so;

17 (iv) that the subscriber understands that the
18 charges for the product or service of the
19 telecommunications carrier will appear on the
20 subscriber's telephone bill; and

21 (v) the name and customer service telephone
22 number of the telecommunications carrier.

23 (C) The telecommunications carrier shall retain,
24 electronically or otherwise, proof of the verification
25 of sales for a minimum of 24 months.

26 (2) Notification. Written notification shall be

1 provided as follows:

2 (A) the telecommunications carrier shall mail a
3 letter to the subscriber using first class mail,
4 postage prepaid, no later than 10 days after initiation
5 of the product or service;

6 (B) the letter shall be a separate document sent
7 for the sole purpose of describing the product or
8 service of the telecommunications carrier;

9 (C) the letter shall be printed with 10-point or
10 larger type and clearly and conspicuously disclose the
11 material terms and conditions of the offer of the
12 telecommunications carrier, as described in paragraph
13 (1) of subsection (c);

14 (D) the letter shall contain a toll-free telephone
15 number the subscriber can call to cancel the product or
16 service;

17 (E) the telecommunications carrier shall retain,
18 electronically or otherwise, proof of written
19 notification for a minimum of 24 months; and

20 (F) written notification can be provided via
21 electronic mail if consumers are given the disclosures
22 required by Section 101(c) of the Electronic
23 Signatures in Global and National Commerce Act.

24 (e) Unauthorized charges.

25 (1) Responsibilities of the billing telecommunications
26 carrier for unauthorized charges. If a subscriber's

1 telephone bill is charged for any product or service
2 without proper subscriber authorization and verification
3 or notification of authorization in compliance with this
4 Section, the telecommunications carrier that billed the
5 subscriber, on its knowledge or notification of any
6 unauthorized charge, shall promptly, but not later than 45
7 days after the date of the knowledge or notification of an
8 unauthorized charge:

9 (A) notify the product or service provider to
10 immediately cease charging the subscriber for the
11 unauthorized product or service;

12 (B) remove the unauthorized charge from the
13 subscriber's bill; and

14 (C) refund or credit to the subscriber all money
15 that the subscriber has paid for any unauthorized
16 charge.

17 (f) The Commission shall promulgate any rules necessary to
18 ensure that subscribers are not billed on the telephone bill
19 for products or services in a manner not in compliance with
20 this Section. The rules promulgated under this Section shall
21 comport with the rules, if any, promulgated by the Attorney
22 General pursuant to the Consumer Fraud and Deceptive Business
23 Practices Act and with any rules promulgated by the Federal
24 Communications Commission or Federal Trade Commission.

25 (g) Complaints may be filed with the Commission under this
26 Section by a subscriber who has been billed on the telephone

1 bill for products or services not in compliance with this
2 Section or by the Commission on its own motion. Upon filing of
3 the complaint, the parties may mutually agree to submit the
4 complaint to the Commission's established mediation process.
5 Remedies in the mediation process may include, but shall not be
6 limited to, the remedies set forth in paragraphs (1) through
7 (4) of this subsection. In its discretion, the Commission may
8 deny the availability of the mediation process and submit the
9 complaint to hearings. If the complaint is not submitted to
10 mediation or if no agreement is reached during the mediation
11 process, hearings shall be held on the complaint pursuant to
12 Article 10 of this Act. If after notice and hearing, the
13 Commission finds that a telecommunications carrier has
14 violated this Section or a rule promulgated under this Section,
15 the Commission may in its discretion order any one or more of
16 the following:

17 (1) Require the violating telecommunications carrier
18 to pay a fine of up to \$1,000 into the Public Utility Fund
19 for each repeated and intentional violation of this
20 Section.

21 (2) Require the violating carrier to refund or cancel
22 all charges for products or services not billed in
23 compliance with this Section.

24 (3) Issue a cease and desist order.

25 (4) For a pattern of violation of this Section or for
26 intentionally violating a cease and desist order, revoke

1 the violating telecommunications carrier's certificate of
2 service authority.

3

4 (220 ILCS 5/13A-1200 new)

5 Sec. 13A-1200. Repealer. This Article is repealed July 1,
6 2014.

7 (220 ILCS 5/13-407 rep.)

8 Section 10. The Public Utilities Act is amended by
9 repealing Section 13-407.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.".