

1 AMENDMENT TO SENATE BILL 10

2 AMENDMENT NO. _____. Amend Senate Bill 10 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Attorney General Act is amended by
5 changing Section 6.5 as follows:

6 (15 ILCS 205/6.5)

7 Sec. 6.5. Consumer Utilities Unit.

8 (a) The General Assembly finds that the health, welfare,
9 and prosperity of all Illinois citizens, and the public's
10 interest in adequate, safe, reliable, cost-effective electric
11 and telecommunications services, requires effective public
12 representation by the Attorney General to protect the rights
13 and interests of the public in the provision of all elements
14 of electric and telecommunications service both during and
15 after the transition to a competitive market, and that to
16 ensure that the benefits of competition in the provision of
17 both electric and telecommunications services to all
18 consumers are attained, there shall be created within the
19 Office of the Attorney General a Consumer Utilities Unit.

20 (b) As used in this Section: "Electric services" means
21 services sold by an electric service provider. "Electric
22 service provider" shall mean anyone who sells, contracts to

1 sell, or markets electric power, generation, distribution,
2 transmission, or services (including metering and billing) in
3 connection therewith. Electric service providers shall
4 include any electric utility and any alternative retail
5 electric supplier as defined in Section 16-102 of the Public
6 Utilities Act.

7 (b-5) As used in this Section: "Telecommunications
8 services" means services sold by a telecommunications
9 carrier, as provided for in Section 13-203 of the Public
10 Utilities Act. "Telecommunications carrier" means anyone who
11 sells, contracts to sell, or markets telecommunications
12 services, whether noncompetitive or competitive, including
13 access services, interconnection services, or any services in
14 connection therewith. Telecommunications carriers include
15 any carrier as defined in Section 13-202 of the Public
16 Utilities Act.

17 (c) There is created within the Office of the Attorney
18 General a Consumer Utilities Unit, consisting of Assistant
19 Attorneys General appointed by the Attorney General, who,
20 together with such other staff as is deemed necessary by the
21 Attorney General, shall have the power and duty on behalf of
22 the people of the State to intervene in, initiate, enforce,
23 and defend all legal proceedings on matters relating to the
24 provision, marketing, and sale of electric and
25 telecommunications service whenever the Attorney General
26 determines that such action is necessary to promote or
27 protect the rights and interest of all Illinois citizens,
28 classes of customers, and users of electric and
29 telecommunications services.

30 (d) In addition to the investigative and enforcement
31 powers available to the Attorney General, including without
32 limitation those under the Consumer Fraud and Deceptive
33 Business Practices Act and the Illinois Antitrust Act, the
34 Attorney General shall be a party as a matter of right to all

1 proceedings, investigations, and related matters involving
 2 the provision of electric services and to those proceedings,
 3 investigations, and related matters involving the provision
 4 of telecommunications services before the Illinois Commerce
 5 Commission and shall, upon request, have access to and the
 6 use of all files, records, data, and documents in the
 7 possession or control of the Commission, which material the
 8 Attorney General's office shall maintain as confidential, to
 9 be used for law enforcement purposes only, which material may
 10 be shared with other law enforcement officials. Nothing in
 11 this Section is intended to take away or limit any of the
 12 powers the Attorney General has pursuant to common law or
 13 other statutory law.

14 (Source: P.A. 90-561, eff. 12-16-97.)

15 Section 10. The State Finance Act is amended by adding
 16 Sections 5.545 and 5.546 as follows:

17 (30 ILCS 105/5.545 new)

18 Sec. 5.545. The Digital Divide Elimination Fund.

19 (30 ILCS 105/5.546 new)

20 Sec. 5.546. The Digital Divide Elimination
 21 Infrastructure Fund.

22 Section 15. The Eliminate the Digital Divide Law is
 23 amended by changing Section 5-30 and adding Section 5-20 as
 24 follows:

25 (30 ILCS 780/5-20 new)

26 Sec. 5-20. Digital Divide Elimination Fund. The Digital
 27 Divide Elimination Fund is created as a special fund in the
 28 State treasury. All moneys in the Fund shall be used, subject
 29 to appropriation by the General Assembly, by the Department

1 for grants made under Section 5-30 of this Act.

2 (30 ILCS 780/5-30)

3 Sec. 5-30. Community Technology Center Grant Program.

4 (a) Subject to appropriation, the Department shall
5 administer the Community Technology Center Grant Program
6 under which the Department shall make grants in accordance
7 with this Article for planning, establishment,
8 administration, and expansion of Community Technology Centers
9 and for assisting public hospitals, libraries, and park
10 districts in eliminating the digital divide. The purposes of
11 the grants shall include, but not be limited to, volunteer
12 recruitment and management, training and instruction,
13 infrastructure, and related goods and services for Community
14 Technology Centers and public hospitals, libraries, and park
15 districts. The total amount of grants under this Section in
16 fiscal year 2001 shall not exceed \$2,000,000, except that
17 this limit on grants shall not apply to grants funded by
18 appropriations from the Digital Divide Elimination Fund. No
19 Community Technology Center may receive a grant of more than
20 \$50,000 under this Section in a particular fiscal year.

21 (b) Public hospitals, libraries, park districts, and
22 State educational agencies, local educational agencies,
23 institutions of higher education, and other public and
24 private nonprofit or for-profit agencies and organizations
25 are eligible to receive grants under this Program, provided
26 that a local educational agency or public or private
27 educational agency or organization must, in order to be
28 eligible to receive grants under this Program, provide
29 computer access and educational services using information
30 technology to the public at one or more of its educational
31 buildings or facilities at least 12 hours each week. A group
32 of eligible entities is also eligible to receive a grant if
33 the group follows the procedures for group applications in 34

1 CFR 75.127-129 of the Education Department General
2 Administrative Regulations.

3 To be eligible to apply for a grant, a Community
4 Technology Center, public hospital, library, or park district
5 must serve a community in which not less than 40% 50% of the
6 students are eligible for a free or reduced price lunch
7 under the national school lunch program or in which not less
8 than 30% 40% of the students are eligible for a free lunch
9 under the national school lunch program; however, if funding
10 is insufficient to approve all grant applications for a
11 particular fiscal year, the Department may impose a higher
12 minimum percentage threshold for that fiscal year.
13 Determinations of communities and determinations of the
14 percentage of students in a community who are eligible for a
15 free or reduced price lunch under the national school lunch
16 program shall be in accordance with rules adopted by the
17 Department.

18 Any entities that have received a Community Technology
19 Center grant under the federal Community Technology Centers
20 Program are also eligible to apply for grants under this
21 Program.

22 The Department shall provide assistance to Community
23 Technology Centers in making those determinations for
24 purposes of applying for grants.

25 (c) Grant applications shall be submitted to the
26 Department not later than March 15 for the next fiscal year.

27 (d) The Department shall adopt rules setting forth the
28 required form and contents of grant applications.

29 (e) There is created the Digital Divide Elimination
30 Advisory Committee. The advisory committee shall consist of
31 5 members appointed one each by the Governor, the President
32 of the Senate, the Senate Minority Leader, the Speaker of the
33 House, and the House Minority Leader. The members of the
34 advisory committee shall receive no compensation for their

1 services as members of the advisory committee but may be
 2 reimbursed for their actual expenses incurred in serving on
 3 the advisory committee. The Digital Divide Elimination
 4 Advisory Committee shall advise the Department in
 5 establishing criteria and priorities for identifying
 6 recipients of grants under this Act. The advisory committee
 7 shall obtain advice from the technology industry regarding
 8 current technological standards. The advisory committee
 9 shall seek any available federal funding.

10 (Source: P.A. 91-704, eff. 7-1-00.)

11 Section 20. The Public Utilities Act is amended by
 12 changing Sections 1-102, 2-101, 2-202, 8-101, 9-230, 13-101,
 13 13-301.1, 13-407, 13-501, 13-502, 13-509, 13-514, 13-515,
 14 13-516, 13-801, and 13-902 and adding Sections 10-101.1,
 15 13-202.5, 13-216, 13-217, 13-218, 13-219, 13-220, 13-301.2,
 16 13-301.3, 13-303, 13-303.5, 13-304, 13-305, 13-502.5, 13-517,
 17 13-518, 13-712, 13-713, 13-903, and 13-1200 as follows:

18 (220 ILCS 5/1-102) (from Ch. 111 2/3, par. 1-102)

19 Sec. 1-102. Findings and Intent. The General Assembly
 20 finds that the health, welfare and prosperity of all Illinois
 21 citizens require the provision of adequate, efficient,
 22 reliable, environmentally safe and least-cost public utility
 23 services at prices which accurately reflect the long-term
 24 cost of such services and which are equitable to all
 25 citizens. It is therefore declared to be the policy of the
 26 State that public utilities shall continue to be regulated
 27 effectively and comprehensively. It is further declared that
 28 the goals and objectives of such regulation shall be to
 29 ensure

30 (a) Efficiency: the provision of reliable energy
 31 services at the least possible cost to the citizens of
 32 the State; in such manner that:

1 (i) physical, human and financial resources
2 are allocated efficiently;

3 (ii) all supply and demand options are
4 considered and evaluated using comparable terms and
5 methods in order to determine how utilities shall
6 meet their customers' demands for public utility
7 services at the least cost;

8 (iii) utilities are allowed a sufficient
9 return on investment so as to enable them to attract
10 capital in financial markets at competitive rates;

11 (iv) tariff rates for the sale of various
12 public utility services are authorized such that
13 they accurately reflect the cost of delivering those
14 services and allow utilities to recover the total
15 costs prudently and reasonably incurred;

16 (v) variation in costs by customer class and
17 time of use is taken into consideration in
18 authorizing rates for each class.

19 (b) Environmental Quality: the protection of the
20 environment from the adverse external costs of public
21 utility services so that

22 (i) environmental costs of proposed actions
23 having a significant impact on the environment and
24 the environmental impact of the alternatives are
25 identified, documented and considered in the
26 regulatory process;

27 (ii) the prudently and reasonably incurred
28 costs of environmental controls are recovered.

29 (c) Reliability: the ability of utilities to
30 provide consumers with public utility services under
31 varying demand conditions in such manner that suppliers
32 of public utility services are able to provide service at
33 varying levels of economic reliability giving appropriate
34 consideration to the costs likely to be incurred as a

1 result of service interruptions, and to the costs of
2 increasing or maintaining current levels of reliability
3 consistent with commitments to consumers.

4 (d) Equity: the fair treatment of consumers and
5 investors in order that

6 (i) the public health, safety and welfare
7 shall be protected;

8 (ii) the application of rates is based on
9 public understandability and acceptance of the
10 reasonableness of the rate structure and level;

11 (iii) the cost of supplying public utility
12 services is allocated to those who cause the costs
13 to be incurred;

14 (iv) if factors other than cost of service are
15 considered in regulatory decisions, the rationale
16 for these actions is set forth;

17 (v) regulation allows for orderly transition
18 periods to accommodate changes in public utility
19 service markets;

20 (vi) regulation does not result in undue or
21 sustained adverse impact on utility earnings;

22 (vii) the impacts of regulatory actions on all
23 sectors of the State are carefully weighed;

24 (viii) the rates for utility services are
25 affordable and therefore preserve the availability
26 of such services to all citizens.

27 It is further declared to be the policy of the State that
28 this Act shall not apply in relation to motor carriers and
29 rail carriers as defined in the Illinois Commercial
30 Transportation Law, or to the Commission in the regulation of
31 such carriers.

32 Nothing in this Act shall be construed to limit,
33 restrict, or mitigate in any way the power and authority of
34 the State's Attorneys or the Attorney General under the

1 Consumer Fraud and Deceptive Business Practices Act.

2 (Source: P.A. 89-42, eff. 1-1-96.)

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

4 Sec. 2-101. Commerce Commission created. There is
5 created an Illinois Commerce Commission consisting of 5
6 members not more than 3 of whom shall be members of the same
7 political party at the time of appointment. The Governor
8 shall appoint the members of such Commission by and with the
9 advice and consent of the Senate. In case of a vacancy in
10 such office during the recess of the Senate the Governor
11 shall make a temporary appointment until the next meeting of
12 the Senate, when he shall nominate some person to fill such
13 office; and any person so nominated who is confirmed by the
14 Senate, shall hold his office during the remainder of the
15 term and until his successor shall be appointed and
16 qualified. Each member of the Commission shall hold office
17 for a term of 5 years from the third Monday in January of the
18 year in which his predecessor's term expires.

19 Notwithstanding any provision of this Section to the
20 contrary, the term of office of each member of the Commission
21 is terminated on the effective date of this amendatory Act of
22 1995, but the incumbent members shall continue to exercise
23 all of the powers and be subject to all of the duties of
24 members of the Commission until their respective successors
25 are appointed and qualified. Of the members initially
26 appointed under the provisions of this amendatory Act of
27 1995, one member shall be appointed for a term of office
28 which shall expire on the third Monday of January, 1997; 2
29 members shall be appointed for terms of office which shall
30 expire on the third Monday of January, 1998; one member shall
31 be appointed for a term of office which shall expire on the
32 third Monday of January, 1999; and one member shall be
33 appointed for a term of office which shall expire on the

1 third Monday of January, 2000. Each respective successor
 2 shall be appointed for a term of 5 years from the third
 3 Monday of January of the year in which his predecessor's term
 4 expires in accordance with the provisions of the first
 5 paragraph of this Section.

6 Each member shall serve until his successor is appointed
 7 and qualified, except that if the Senate refuses to consent
 8 to the appointment of any member, such office shall be
 9 deemed vacant, and within 2 weeks of the date the Senate
 10 refuses to consent to the reappointment of any member, such
 11 member shall vacate such office. The Governor shall from time
 12 to time designate the member of the Commission who shall be
 13 its chairman. Consistent with the provisions of this Act, the
 14 Chairman shall be the chief executive officer of the
 15 Commission for the purpose of ensuring that the Commission's
 16 policies are properly executed.

17 If there is no vacancy on the Commission, 4 members of
 18 the Commission shall constitute a quorum to transact
 19 business; otherwise, a majority of the Commission shall
 20 constitute a quorum to transact business, and ~~but~~ no vacancy
 21 shall impair the right of the remaining commissioners to
 22 exercise all of the powers of the Commission. ~~and~~ Every
 23 finding, order, or decision approved by a majority of the
 24 members of the Commission shall be deemed to be the finding,
 25 order, or decision of the Commission.

26 (Source: P.A. 89-429, eff. 12-15-95.)

27 (220 ILCS 5/2-202) (from Ch. 111 2/3, par. 2-202)

28 Sec. 2-202. Policy; Public Utility Fund; tax.

29 (a) It is declared to be the public policy of this State
 30 that in order to maintain and foster the effective regulation
 31 of public utilities under this Act in the interests of the
 32 People of the State of Illinois and the public utilities as
 33 well, the public utilities subject to regulation under this

1 Act and which enjoy the privilege of operating as public
2 utilities in this State, shall bear the expense of
3 administering this Act by means of a tax on such privilege
4 measured by the annual gross revenue of such public utilities
5 in the manner provided in this Section. For purposes of this
6 Section, "expense of administering this Act" includes any
7 costs incident to studies, whether made by the Commission or
8 under contract entered into by the Commission, concerning
9 environmental pollution problems caused or contributed to by
10 public utilities and the means for eliminating or abating
11 those problems. Such proceeds shall be deposited in the
12 Public Utility Fund in the State treasury.

13 (b) All of the ordinary and contingent expenses of the
14 Commission incident to the administration of this Act shall
15 be paid out of the Public Utility Fund except the
16 compensation of the members of the Commission which shall be
17 paid from the General Revenue Fund. Notwithstanding other
18 provisions of this Act to the contrary, the ordinary and
19 contingent expenses of the Commission incident to the
20 administration of the Illinois Commercial Transportation Law
21 may be paid from appropriations from the Public Utility Fund
22 through the end of fiscal year 1986.

23 (c) A tax is imposed upon each public utility subject to
24 the provisions of this Act equal to .08% of its gross revenue
25 for each calendar year commencing with the calendar year
26 beginning January 1, 1982, except that the Commission may, by
27 rule, establish a different rate no greater than 0.1%. For
28 purposes of this Section, "gross revenue" shall not include
29 revenue from the production, transmission, distribution,
30 sale, delivery, or furnishing of electricity. "Gross revenue"
31 shall not include amounts paid by telecommunications
32 retailers under the Telecommunications Municipal
33 Infrastructure Maintenance Fee Act.

34 (d) Annual gross revenue returns shall be filed in

1 accordance with paragraph (1) or (2) of this subsection (d).

2 (1) Except as provided in paragraph (2) of this
3 subsection (d), on or before January 10 of each year each
4 public utility subject to the provisions of this Act
5 shall file with the Commission an estimated annual gross
6 revenue return containing an estimate of the amount of
7 its gross revenue for the calendar year commencing
8 January 1 of said year and a statement of the amount of
9 tax due for said calendar year on the basis of that
10 estimate. Public utilities may also file revised returns
11 containing updated estimates and updated amounts of tax
12 due during the calendar year. These revised returns, if
13 filed, shall form the basis for quarterly payments due
14 during the remainder of the calendar year. In addition,
15 on or before March 31 ~~February--15~~ of each year, each
16 public utility shall file an amended return showing the
17 actual amount of gross revenues shown by the company's
18 books and records as of December 31 of the previous year.
19 Forms and instructions for such estimated, revised, and
20 amended returns shall be devised and supplied by the
21 Commission.

22 (2) Beginning with returns due after January 1,
23 2002 ~~1993~~, the requirements of paragraph (1) of this
24 subsection (d) shall not apply to any public utility in
25 any calendar year for which the total tax the public
26 utility owes under this Section is less than \$10,000
27 ~~\$17,000~~. For such public utilities with respect to such
28 years, the public utility shall file with the Commission,
29 on or before March ~~January~~ 31 of the following year, an
30 annual gross revenue return for the year and a statement
31 of the amount of tax due for that year on the basis of
32 such a return. Forms and instructions for such returns
33 and corrected returns shall be devised and supplied by
34 the Commission.

1 (e) All returns submitted to the Commission by a public
2 utility as provided in this subsection (e) or subsection (d)
3 of this Section shall contain or be verified by a written
4 declaration by an appropriate officer of the public utility
5 that the return is made under the penalties of perjury. The
6 Commission may audit each such return submitted and may,
7 under the provisions of Section 5-101 of this Act, take such
8 measures as are necessary to ascertain the correctness of the
9 returns submitted. The Commission has the power to direct the
10 filing of a corrected return by any utility which has filed
11 an incorrect return and to direct the filing of a return by
12 any utility which has failed to submit a return. A
13 taxpayer's signing a fraudulent return under this Section is
14 perjury, as defined in Section 32-2 of the Criminal Code of
15 1961.

16 (f) (1) For all public utilities subject to paragraph
17 (1) of subsection (d), at least one quarter of the annual
18 amount of tax due under subsection (c) shall be paid to the
19 Commission on or before the tenth day of January, April,
20 July, and October of the calendar year subject to tax. In
21 the event that an adjustment in the amount of tax due should
22 be necessary as a result of the filing of an amended or
23 corrected return under subsection (d) or subsection (e) of
24 this Section, the amount of any deficiency shall be paid by
25 the public utility together with the amended or corrected
26 return and the amount of any excess shall, after the filing
27 of a claim for credit by the public utility, be returned to
28 the public utility in the form of a credit memorandum in the
29 amount of such excess or be refunded to the public utility in
30 accordance with the provisions of subsection (k) of this
31 Section. However, if such deficiency or excess is less than
32 \$1, then the public utility need not pay the deficiency and
33 may not claim a credit.

34 (2) Any public utility subject to paragraph (2) of

1 subsection (d) shall pay the amount of tax due under
2 subsection (c) on or before March January 31 next following
3 the end of the calendar year subject to tax. In the event
4 that an adjustment in the amount of tax due should be
5 necessary as a result of the filing of a corrected return
6 under subsection (e), the amount of any deficiency shall be
7 paid by the public utility at the time the corrected return
8 is filed. Any excess tax payment by the public utility shall
9 be returned to it after the filing of a claim for credit, in
10 the form of a credit memorandum in the amount of the excess.
11 However, if such deficiency or excess is less than \$1, the
12 public utility need not pay the deficiency and may not claim
13 a credit.

14 (g) Each installment or required payment of the tax
15 imposed by subsection (c) becomes delinquent at midnight of
16 the date that it is due. Failure to make a payment as
17 required by this Section shall result in the imposition of a
18 late payment penalty, an underestimation penalty, or both, as
19 provided by this subsection. The late payment penalty shall
20 be the greater of:

21 (1) \$25 for each month or portion of a month that
22 the installment or required payment is unpaid or

23 (2) an amount equal to the difference between what
24 should have been paid on the due date, based upon the
25 most recently filed estimated, annual, or amended return
26 estimate, and what was actually paid, times 1%, for each
27 month or portion of a month that the installment or
28 required payment goes unpaid. This penalty may be
29 assessed as soon as the installment or required payment
30 becomes delinquent.

31 The underestimation penalty shall apply to those public
32 utilities subject to paragraph (1) of subsection (d) and
33 shall be calculated after the filing of the amended return.
34 It shall be imposed if the amount actually paid on any of the

1 dates specified in subsection (f) is not equal to at least
2 one-fourth of the amount actually due for the year, and shall
3 equal the greater of:

4 (1) \$25 for each month or portion of a month that
5 the amount due is unpaid or

6 (2) an amount equal to the difference between what
7 should have been paid, based on the amended return, and
8 what was actually paid as of the date specified in
9 subsection (f), times a percentage equal to 1/12 of the
10 sum of 10% and the percentage most recently established
11 by the Commission for interest to be paid on customer
12 deposits under 83 Ill. Adm. Code 280.70(e)(1), for each
13 month or portion of a month that the amount due goes
14 unpaid, except that no underestimation penalty shall be
15 assessed if the amount actually paid on or before each of
16 the dates specified in subsection (f) was based on an
17 estimate of gross revenues at least equal to the actual
18 gross revenues for the previous year. The Commission may
19 enforce the collection of any delinquent installment or
20 payment, or portion thereof by legal action or in any
21 other manner by which the collection of debts due the
22 State of Illinois may be enforced under the laws of this
23 State. The executive director or his designee may excuse
24 the payment of an assessed penalty or a portion of an
25 assessed penalty if he determines that enforced
26 collection of the penalty as assessed would be unjust.

27 (h) All sums collected by the Commission under the
28 provisions of this Section shall be paid promptly after the
29 receipt of the same, accompanied by a detailed statement
30 thereof, into the Public Utility Fund in the State treasury.

31 (i) During the month of October of each odd-numbered
32 year the Commission shall:

33 (1) determine the amount of all moneys deposited in
34 the Public Utility Fund during the preceding fiscal

1 biennium plus the balance, if any, in that fund at the
2 beginning of that biennium;

3 (2) determine the sum total of the following items:

4 (A) all moneys expended or obligated against
5 appropriations made from the Public Utility Fund during
6 the preceding fiscal biennium, plus (B) the sum of the
7 credit memoranda then outstanding against the Public
8 Utility Fund, if any; and

9 (3) determine the amount, if any, by which the sum
10 determined as provided in item (1) exceeds the amount
11 determined as provided in item (2).

12 If the amount determined as provided in item (3) of this
13 subsection exceeds \$5,000,000 ~~\$2,500,000~~, the Commission
14 shall then compute the proportionate amount, if any, which
15 (x) the tax paid hereunder by each utility during the
16 preceding biennium, and (y) the amount paid into the Public
17 Utility Fund during the preceding biennium by the Department
18 of Revenue pursuant to Sections 2-9 and 2-11 of the
19 Electricity Excise Tax Law, bears to the difference between
20 the amount determined as provided in item (3) of this
21 subsection (i) and \$5,000,000 ~~\$2,500,000~~. The Commission
22 shall cause the proportionate amount determined with respect
23 to payments made under the Electricity Excise Tax Law to be
24 transferred into the General Revenue Fund in the State
25 Treasury, and notify each public utility that it may file
26 during the 3 month period after the date of notification a
27 claim for credit for the proportionate amount determined with
28 respect to payments made hereunder by the public utility. If
29 the proportionate amount is less than \$10, no notification
30 will be sent by the Commission, and no right to a claim
31 exists as to that amount. Upon the filing of a claim for
32 credit within the period provided, the Commission shall issue
33 a credit memorandum in such amount to such public utility.
34 Any claim for credit filed after the period provided for in

1 this Section is void.

2 (j) Credit memoranda issued pursuant to subsection (f)
3 and credit memoranda issued after notification and filing
4 pursuant to subsection (i) may be applied for the 2 year
5 period from the date of issuance, against the payment of any
6 amount due during that period under the tax imposed by
7 subsection (c), or, subject to reasonable rule of the
8 Commission including requirement of notification, may be
9 assigned to any other public utility subject to regulation
10 under this Act. Any application of credit memoranda after the
11 period provided for in this Section is void.

12 (k) The chairman or executive director may make refund
13 of fees, taxes or other charges whenever he shall determine
14 that the person or public utility will not be liable for
15 payment of such fees, taxes or charges during the next 24
16 months and he determines that the issuance of a credit
17 memorandum would be unjust.

18 (Source: P.A. 90-561, eff. 8-1-98; 90-562, 12-16-97; 90-655,
19 eff. 7-30-98.)

20 (220 ILCS 5/8-101) (from Ch. 111 2/3, par. 8-101)

21 Sec. 8-101. Duties of public utilities;
22 nondiscrimination. A Every public utility shall furnish,
23 provide, and maintain such service instrumentalities,
24 equipment, and facilities as shall promote the safety,
25 health, comfort, and convenience of its patrons, employees,
26 and public and as shall be in all respects adequate,
27 efficient, just, and reasonable.

28 All rules and regulations made by a public utility
29 affecting or pertaining to its charges or service to the
30 public shall be just and reasonable.

31 A Every public utility shall, upon reasonable notice,
32 furnish to all persons who may apply therefor and be
33 reasonably entitled thereto, suitable facilities and service,

1 without discrimination and without delay.

2 Nothing in this Section shall be construed to prevent a
3 public utility from accepting payment electronically or by
4 the use of a customer-preferred financially accredited credit
5 or debit methodology.

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

7 (220 ILCS 5/9-230) (from Ch. 111 2/3, par. 9-230)

8 Sec. 9-230. Rate of return; financial involvement with
9 nonutility or unregulated companies. In determining a
10 reasonable rate of return upon investment for any public
11 utility in any proceeding to establish rates or charges, the
12 Commission shall not include any (i) incremental risk, (ii)
13 or increased cost of capital, or (iii) after May 31, 2003,
14 revenue or expense attributed to telephone directory
15 operations, which is the direct or indirect result of the
16 public utility's affiliation with unregulated or nonutility
17 companies.

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

19 (220 ILCS 5/10-101.1 new)

20 Sec. 10-101.1. Mediation; arbitration; case management.

21 (a) It is the intent of the General Assembly that
22 proceedings before the Commission shall be concluded as
23 expeditiously as is possible consistent with the right of the
24 parties to the due process of law and protection of the
25 public interest. It is further the intent of the General
26 Assembly to permit and encourage voluntary mediation and
27 voluntary binding arbitration of disputes arising under this
28 Act.

29 (b) Nothing in this Act shall prevent parties to
30 contested cases brought before the Commission from resolving
31 those cases, or other disputes arising under this Act, in
32 part or in their entirety, by agreement of all parties, by

1 compromise and settlement, or by voluntary mediation;
2 provided, however, that nothing in this Section shall limit
3 the Commission's authority to conduct such investigations and
4 enter such orders as it shall deem necessary to enforce the
5 provisions of this Act or otherwise protect the public
6 interest. Evidence of conduct or statements made by a party
7 in furtherance of voluntary mediation or in compromise
8 negotiations is not admissible as evidence should the matter
9 subsequently be heard by the Commission; provided, however
10 that evidence otherwise discoverable is not excluded or
11 deemed inadmissible merely because it is presented in the
12 course of voluntary mediation or compromise negotiations. No
13 civil penalty shall be imposed upon parties that reach an
14 agreement pursuant to the mediation procedures in this
15 Section.

16 (c) The Commission shall prescribe by rule such
17 procedures and facilities as are necessary to permit parties
18 to resolve disputes through voluntary mediation prior to the
19 filing of, or at any point during, the pendency of a
20 contested matter. Parties to disputes arising under this Act
21 are encouraged to submit disputes to the Commission for
22 voluntary mediation, which shall not be binding upon the
23 parties. Submission of a dispute to voluntary mediation shall
24 not compromise the right of any party to bring action under
25 this Act.

26 (d) In any contested case before the Commission, at the
27 Commission's or hearing examiner's direction or on motion of
28 any party, a case management conference may be held at such
29 time in the proceeding prior to evidentiary hearing as the
30 hearing examiner deems proper. Prior to the conference, when
31 directed to do so, all parties shall file a case management
32 memorandum that addresses items (1) through (9) as directed
33 by the hearing examiner. At the conference, the following
34 shall be considered:

1 (1) the identification and simplification of the
2 issues; provided, however, that the identification of
3 issues by a party shall not foreclose that party from
4 raising such other meritorious issues as that party might
5 subsequently identify;

6 (2) amendments to the pleadings;

7 (3) the possibility of obtaining admissions of fact
8 and of documents which will avoid unnecessary proof;

9 (4) limitations on discovery including:

10 (A) the area of expertise and the number of
11 witnesses who will likely be called; provided,
12 however, that the identification of witnesses by a
13 party shall not foreclose that party from producing
14 such other witnesses as that party might
15 subsequently identify; and

16 (B) schedules for responses to and completion
17 of discovery; provided, however, that such responses
18 shall under no circumstances be provided later than
19 28 days after such discovery or requests are served,
20 unless the hearing examiner shall order or the
21 parties agree to some other time period for
22 response;

23 (5) the possibility of settlement and scheduling of
24 a settlement conference;

25 (6) the advisability of alternative dispute
26 resolution including, but not limited to, mediation or
27 arbitration;

28 (7) the date on which the matter should be ready
29 for evidentiary hearing and the likely duration of the
30 hearing;

31 (8) the advisability of holding subsequent case
32 management conferences; and

33 (9) any other matters that may aid in the
34 disposition of the action.

1 (e) The Commission is hereby authorized, if requested by
2 all parties to any complaint brought under this Act, to
3 arbitrate the complaint and to enter a binding arbitration
4 award disposing of the complaint. The Commission shall
5 prescribe by rule procedures for arbitration.

6 (220 ILCS 5/13-101) (from Ch. 111 2/3, par. 13-101)

7 (Section scheduled to be repealed on July 1, 2001)

8 Sec. 13-101. Except to the extent modified or
9 supplemented by the specific provisions of this Article, the
10 Sections of this Act pertaining to public utilities, public
11 utility rates and services, and the regulation thereof, are
12 fully and equally applicable to noncompetitive
13 telecommunications rates and services, and the regulation
14 thereof, except where the context clearly renders such
15 provisions inapplicable. Except to the extent modified or
16 supplemented by the specific provisions of this Article,
17 Articles I through V, Sections 8-301, 8-501, 8-505, 9-221,
18 9-222, 9-222.1, 9-222.2, 9-250, 9-252, and 9-252.1, and
19 Articles X and XI of this Act are fully and equally
20 applicable to competitive telecommunications rates and
21 services, and the regulation thereof; in addition, as to
22 competitive telecommunications rates and services, and the
23 regulation thereof, all rules and regulations made by a
24 telecommunications carrier affecting or pertaining to its
25 charges or service to the public shall be just and
26 reasonable, provided that nothing in this Section shall be
27 construed to prevent a telecommunications carrier from
28 accepting payment electronically or by the use of a
29 customer-preferred financially accredited credit or debit
30 methodology. As of the effective date of this amendatory Act
31 of the 92nd General Assembly, Sections 4-202, 4-203, and
32 5-202 of this Act shall cease to apply to telecommunications
33 rates and services.

1 (Source: P.A. 90-38, eff. 6-27-97.)

2 (220 ILCS 5/13-202.5 new)

3 Sec. 13-202.5. Incumbent local exchange carrier.

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

11 (220 ILCS 5/13-216 new)

12 Sec. 13-216. Network element. "Network element" means a
13 facility or equipment used in the provision of a
14 telecommunications service. The term also includes features,
15 functions, and capabilities that are provided by means of the
16 facility or equipment, including, but not limited to,
17 subscriber numbers, databases, signaling systems, and
18 information sufficient for billing and collection or used in
19 the transmission, routing, or other provision of a
20 telecommunications service.

21 (220 ILCS 5/13-217 new)

22 Sec. 13-217. End user. "End user" means any person,
23 corporation, partnership, firm, municipality, cooperative,
24 organization, governmental agency, building owner, or other
25 entity provided with a telecommunications service for its own
26 consumption and not for resale.

27 (220 ILCS 5/13-218 new)

28 Sec. 13-218. Business end user. "Business end user"
29 means (1) an end user engaged primarily or substantially in a
30 paid commercial, professional, or institutional activity; (2)

1 an end user provided telecommunications service in a
2 commercial, professional, or institutional location, or other
3 location serving primarily or substantially as a site of an
4 activity for pay; (3) an end user whose telecommunications
5 service is listed as the principal or only number for a
6 business in any yellow pages directory; (4) an end user whose
7 telecommunications service is used to conduct promotions,
8 solicitations, or market research for which compensation or
9 reimbursement is paid or provided; provided, however, that
10 the use of telecommunications service, without compensation
11 or reimbursement, for a charitable or civic purpose shall not
12 constitute business use of a telecommunications service.

13 (220 ILCS 5/13-219 new)

14 Sec. 13-219. Residential end user. "Residential end
15 user" means an end user other than a business end user.

16 (220 ILCS 5/13-220 new)

17 Sec. 13-220. Retail telecommunications service. "Retail
18 telecommunications service" means a telecommunications
19 service sold to an end user. "Retail telecommunications
20 service" does not include a telecommunications service
21 provided by a telecommunications carrier to a
22 telecommunications carrier, including to itself, as a
23 component of, or for the provision of, telecommunications
24 service. A business retail telecommunications service is a
25 retail telecommunications service provided to a business end
26 user. A residential retail telecommunications service is a
27 retail telecommunications service provided to a residential
28 end user.

29 (220 ILCS 5/13-301.1) (from Ch. 111 2/3, par. 13-301.1)

30 (Section scheduled to be repealed on July 1, 2001)

31 Sec. 13-301.1. Universal Telephone Service Assistance

1 Program.

2 (a) The Commission shall by rule or regulation establish
3 a Universal Telephone Service Assistance Program for low
4 income residential customers. The program shall provide for a
5 reduction of access line charges, a reduction of connection
6 charges, or any other alternative to increase accessibility
7 to telephone service that the Commission deems advisable
8 subject to the availability of funds for the program as
9 provided in subsection (d) ~~(b)~~. The Commission shall
10 establish eligibility requirements for benefits under the
11 program.

12 (b) The Commission shall adopt rules providing for
13 enhanced enrollment for eligible consumers to receive
14 lifeline service. Enhanced enrollment may include, but is
15 not limited to, joint marketing, joint application, or joint
16 processing with the Low-Income Home Energy Assistance
17 Program, the Medicaid Program, and the Food Stamp program.
18 The Department of Human Services, the Department of Public
19 Aid, and the Department of Commerce and Community Affairs,
20 upon request of the Commission, shall assist in the adoption
21 and implementation of those rules. The Commission and the
22 Department of Human Services, the Department of Public Aid,
23 and the Department of Commerce and Community Affairs may
24 enter into memoranda of understanding establishing the
25 respective duties of the Commission and the Departments in
26 relation to enhanced enrollment.

27 (c) In this Section, "lifeline service" means a retail
28 local service offering described by 47 C.F.R. Section
29 54.401(a), as amended.

30 (d) ~~(b)~~ The Commission shall require by rule or
31 regulation that each telecommunications carrier providing
32 local exchange telecommunications services notify its
33 customers that if the customer wishes to participate in the
34 funding of the Universal Telephone Service Assistance Program

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

17 (Source: P.A. 87-750; 90-372, eff. 7-1-98.)

18 (220 ILCS 5/13-301.2 new)

19 Sec. 13-301.2. Program to Foster Elimination of the
20 Digital Divide. The Commission shall require by rule that
21 each telecommunications carrier notify its customers that if
22 the customer wishes to participate in the funding of the
23 Program to Foster Elimination of the Digital Divide he or she
24 may do so by electing to contribute, on a monthly basis, a
25 fixed amount that will be included in the customer's monthly
26 bill. The customer may cease contributing at any time upon
27 providing notice to the telecommunications carrier. The
28 notice shall state that any contribution made will not reduce
29 the customer's bill for telecommunications services. Failure
30 to remit the amount of increased payment will reduce the
31 contribution accordingly. The Commission shall specify the
32 monthly fixed amount or amounts that customers wishing to
33 contribute to the funding of the Program to Foster

1 Elimination of the Digital Divide may choose from in making
2 their contributions. A telecommunications carrier shall
3 remit the amounts contributed by its customers to the
4 Department of Commerce and Community Affairs for deposit in
5 the Digital Divide Elimination Fund at the intervals
6 specified in the Commission rules.

7 (220 ILCS 5/13-301.3 new)

8 Sec. 13-301.3. Digital Divide Elimination Infrastructure
9 Program.

10 (a) The Digital Divide Elimination Infrastructure Fund
11 is created as a special fund in the State treasury. All
12 moneys in the Fund shall be used, subject to appropriation,
13 by the Commission to fund the construction of facilities
14 specified in Commission rules adopted under this Section. The
15 Commission may accept private and public funds, including
16 federal funds, for deposit into the Fund. Earnings
17 attributable to moneys in the Fund shall be deposited into
18 the Fund.

19 (b) The Commission shall adopt rules under which it will
20 make grants out of funds appropriated from the Digital Divide
21 Elimination Infrastructure Fund to eligible entities as
22 specified in the rules for the construction of high-speed
23 data transmission facilities in areas of the State for which
24 the incumbent local exchange carrier having the duty to serve
25 such area, and the obligation to provide advanced services to
26 such area pursuant to Section 13-517 of this Act, has sought
27 and obtained an exemption from such obligation based upon a
28 Commission finding that provision of such advanced services
29 to customers in such area is either unduly economically
30 burdensome or will impose a significant adverse economic
31 impact on users of telecommunications services generally.

32 (c) The rules of the Commission shall provide for the
33 competitive selection of recipients of grant funds available

1 from the Digital Divide Elimination Infrastructure Fund
2 pursuant to the Illinois Procurement Code. Grants shall be
3 awarded to bidders chosen on the basis of the criteria
4 established in such rules.

5 (d) All entities awarded grant moneys under this Section
6 shall maintain all records required by Commission rule for
7 the period of time specified in the rules. Such records shall
8 be subject to audit by the Commission, by any auditor
9 appointed by the State, or by any State officer authorized to
10 conduct audits.

11 (220 ILCS 5/13-303 new)

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

1 telecommunications carrier has been given notice of (i) the
2 substance of the alleged violation, including citation to the
3 law, order, decision, rule, regulation, or direction of the
4 Commission alleged to have been violated and (ii) the time
5 and the date of the meeting at which such resolution will
6 first be before the Commission for 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
10 appropriate relief by way of mandamus or injunction. It
11 shall be the duty of the court to specify a time, not
12 exceeding 20 days after the service of the copy of the
13 complaint, within which the telecommunications carrier
14 complained of must answer the complaint, and in the meantime
15 the telecommunications carrier may be restrained. In case of
16 default in answer or after answer, the court shall
17 immediately inquire into the facts and circumstances of the
18 case. The telecommunications carrier and persons that the
19 court may deem necessary or proper may be joined as parties.
20 The final judgment in any action or proceeding shall either
21 dismiss the action or proceeding or grant relief by mandamus
22 or injunction as prayed for in the complaint, or in such
23 modified or other form as will afford appropriate relief in
24 the court's judgment.

25 (220 ILCS 5/13-303.5 new)

26 Sec. 13-303.5. Injunctive relief. If, after a hearing,
27 the Commission determines that a telecommunications carrier
28 has violated this Act or a Commission order or rule, any
29 telecommunications carrier adversely affected by the
30 violation may seek injunctive relief in circuit court.

31 (220 ILCS 5/13-304 new)

32 Sec. 13-304. Action to recover civil penalties.

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

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

16 (2) the presence or absence of due diligence on the
17 part of the violator in attempting either to comply with
18 requirements of the Act, the rules, or the order of the
19 Commission, or to secure lawful relief from those
20 requirements;

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

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

29 (b) If timely judicial review of a Commission order that
30 imposes a civil penalty is taken by a telecommunications
31 carrier, a corporation other than a telecommunications
32 carrier, or a person acting as a telecommunications carrier
33 on whom or on which the civil penalty has been imposed, the
34 reviewing court shall enter a judgment on all amounts upon

1 affirmance of the Commission order. If timely judicial
 2 review is not taken and the civil penalty remains unpaid for
 3 60 days after service of the order, the Commission in its
 4 discretion may either begin revocation proceedings or bring
 5 suit to recover the penalties. Unless stayed by a reviewing
 6 court, interest shall accrue from the 60th day after the date
 7 of service of the Commission order to the date full payment
 8 is received by the Commission.

9 (c) Actions to recover delinquent civil penalties under
 10 this Section shall be brought in the name of the People of
 11 the State of Illinois in the circuit court in and for the
 12 county in which the cause, or some part thereof, arose, or in
 13 which the entity complained of resides. The action shall be
 14 commenced and prosecuted to final judgement by the
 15 Commission. In any such action, all interest incurred up to
 16 the time of final court judgment may be recovered in that
 17 action. In all such actions, the procedure and rules of
 18 evidence shall be the same as in ordinary civil actions,
 19 except as otherwise herein provided. Any such action may be
 20 compromised or discontinued on application of the Commission
 21 upon such terms as the court shall approve and order.

22 (d) Civil penalties related to the late filing of
 23 reports, taxes, or other filings shall be paid into the State
 24 treasury to the credit of the Public Utility Fund. Except as
 25 otherwise provided in this Act, all other fines and civil
 26 penalties shall be paid into the State treasury to the credit
 27 of the General Revenue Fund.

28 (220 ILCS 5/13-305 new)

29 Sec. 13-305. Amount of civil penalty. A
 30 telecommunications carrier, any corporation other than a
 31 telecommunications carrier, or any person acting as a
 32 telecommunications carrier that violates or fails to comply
 33 with any provisions of this Act or that fails to obey,

1 observe, or comply with any order, decision, rule,
2 regulation, direction, or requirement, or any part or
3 provision thereof, of the Commission, made or issued under
4 authority of this Act, in a case in which a civil penalty is
5 not otherwise provided for in this Act, but excepting Section
6 5-202 of the Act, shall be subject to a civil penalty imposed
7 in the manner provided in Section 13-304 of no more than
8 \$30,000 or 0.00825% of the carrier's gross intrastate annual
9 telecommunications revenue, whichever is greater, for each
10 offense unless the violator has fewer than 35,000 subscriber
11 access lines, in which case the civil penalty may not exceed
12 \$2,000 for each offense.

13 A telecommunications carrier subject to administrative
14 penalties resulting from a final Commission order approving
15 an intercorporate transaction entered pursuant to Section
16 7-204 of this Act shall be subject to penalties under this
17 Section imposed for the same conduct only to the extent that
18 such penalties exceed those imposed by the final Commission
19 order.

20 Every violation of the provisions of this Act or of any
21 order, decision, rule, regulation, direction, or requirement
22 of the Commission, or any part or provision thereof, by any
23 corporation or person, is a separate and distinct offense.
24 Penalties under this Section shall attach and begin to accrue
25 from the day after the date upon which the Commission enters
26 an order determining that the corporation or person has
27 violated or is in violation of the order, decision, rule,
28 regulation, direction, or requirement of the Commission, or
29 part or provision thereof; or upon the day after the date
30 upon which the Commission enters an order directing the
31 corporation or person to cease and desist from violating the
32 order, decision, rule, regulation, direction, or requirement
33 of the Commission, or part or provision thereof; whichever is
34 the earlier. In case of a continuing violation, each day's

1 continuance thereof shall be a separate and distinct offense.

2 In construing and enforcing the provisions of this Act
3 relating to penalties, the act, omission, or failure of any
4 officer, agent, or employee of any telecommunications carrier
5 or of any person acting within the scope of his or her duties
6 or employment shall in every case be deemed to be the act,
7 omission, or failure of such telecommunications carrier or
8 person.

9 If the party who has violated or failed to comply with
10 this Act or an order, decision, rule, regulation, direction,
11 or requirement of the Commission, or any part or provision
12 thereof, fails to seek timely review pursuant to Sections
13 10-113 and 10-201 of this Act, the party shall, upon
14 expiration of the statutory time limit, be subject to the
15 civil penalty provision of this Section.

16 Twenty percent of all moneys collected under this Section
17 shall be deposited into the Digital Divide Elimination Fund
18 and 20% of all moneys collected under this Section shall be
19 deposited into the Digital Divide Elimination Infrastructure
20 Fund.

21 (220 ILCS 5/13-407) (from Ch. 111 2/3, par. 13-407)

22 (Section scheduled to be repealed on July 1, 2001)

23 Sec. 13-407. Commission study and report. The Commission
24 shall monitor and analyze patterns of entry and exit, and
25 changes in patterns of applications-for entry and exit, for
26 each relevant market for telecommunications services,
27 including emerging high speed telecommunications markets, and
28 shall include its findings together with appropriate
29 recommendations for legislative action in its annual report
30 to the General Assembly.

31 The Commission shall also monitor and analyze the status
32 of deployment of services to consumers, and any resulting
33 "digital divisions" between consumers, including any changes

1 or trends therein. The Commission shall include its findings
2 together with appropriate recommendations for legislative
3 action in its annual report to the General Assembly. In
4 preparing this analysis the Commission shall evaluate
5 information provided by telecommunications carriers that
6 pertains to the state of competition in telecommunications
7 markets including, but not limited to:

8 (1) the number and type of firms providing
9 telecommunications services, including broadband
10 telecommunications services, within the State;

11 (2) the telecommunications services offered by
12 these firms to both retail and wholesale customers;

13 (3) the extent to which customers and other
14 providers are purchasing the firms' telecommunications
15 services;

16 (4) the technologies or methods by which these
17 firms provide these services, including descriptions of
18 technologies in place and under development, and the
19 degree to which firms rely on other wholesale providers
20 to provide service to their own customers; and

21 (5) the tariffed retail and wholesale prices for
22 services provided by these firms.

23 The Commission shall at a minimum assess the variability
24 in this information according to geography, examining
25 variability by exchange, wirecenter, or zip code, and by
26 customer class, examining, at a minimum, the variability
27 between residential and small, medium, and large business
28 customers. The Commission shall provide an analysis of
29 market trends by collecting this information from firms
30 providing telecommunications services within the State. The
31 Commission shall also collect all information, in a format
32 determined by the Commission, that the Commission deems
33 necessary to assist in monitoring and analyzing the
34 telecommunications markets and the status of competition and

1 deployment of telecommunications services to consumers in the
2 State.

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

4 (220 ILCS 5/13-501) (from Ch. 111 2/3, par. 13-501)

5 (Section scheduled to be repealed on July 1, 2001)

6 Sec. 13-501. Tariff; filing.

7 (a) No telecommunications carrier shall offer or provide
8 telecommunications service unless and until a tariff is filed
9 with the Commission which describes the nature of the
10 service, applicable rates and other charges, terms and
11 conditions of service, and the exchange, exchanges or other
12 geographical area or areas in which the service shall be
13 offered or provided. The Commission may prescribe the form
14 of such tariff and any additional data or information which
15 shall be included therein.

16 (b) After a hearing, the Commission has the discretion
17 to impose an interim or permanent tariff on a
18 telecommunications carrier as part of the order in the case.
19 When a tariff is imposed as part of the order in a case, the
20 tariff shall remain in full force and effect until a
21 compliance tariff, or superseding tariff, is filed by the
22 telecommunications carrier and, after notice to the parties
23 in the case and after a compliance hearing is held, is found
24 by the Commission to be in compliance with the Commission's
25 order.

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

27 (220 ILCS 5/13-502) (from Ch. 111 2/3, par. 13-502)

28 (Section scheduled to be repealed on July 1, 2001)

29 Sec. 13-502. Classification of services.

30 (a) All telecommunications services offered or provided
31 under tariff by telecommunications carriers shall be
32 classified as either competitive or noncompetitive. A

1 telecommunications carrier may offer or provide either
2 competitive or noncompetitive telecommunications services, or
3 both, subject to proper certification and other applicable
4 provisions of this Article. Any tariff filed with the
5 Commission as required by Section 13-501 shall indicate
6 whether the service to be offered or provided is competitive
7 or noncompetitive.

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

34 (c) In determining whether a service should be

1 reclassified as competitive, the Commission shall, at a
2 minimum, consider the following factors:

3 (1) the number, size, and geographic distribution
4 of other providers of the service;

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

11 (3) the existence of economic, technological, or
12 any other barriers to entry into, or exit from, the
13 relevant market;

14 (4) the extent to which other telecommunications
15 companies must rely upon the service of another
16 telecommunications carrier to provide telecommunications
17 service; and

18 (5) any other factors that may affect competition
19 and the public interest that the Commission deems
20 appropriate.

21 (d) No tariff classifying a new telecommunications
22 service as competitive or reclassifying a previously
23 noncompetitive telecommunications service as competitive,
24 which is filed by a telecommunications carrier which also
25 offers or provides noncompetitive telecommunications service,
26 shall be effective unless and until such telecommunications
27 carrier offering or providing, or seeking to offer or
28 provide, such proposed competitive service prepares and files
29 a study of the long-run service incremental cost underlying
30 such service and demonstrates that the tariffed rates and
31 charges for the service and any relevant group of services
32 that includes the proposed competitive service and for which
33 resources are used in common solely by that group of services
34 are not less than the long-run service incremental cost of

1 providing the service and each relevant group of services.
2 Such study shall be given proprietary treatment by the
3 Commission at the request of such carrier if any other
4 provider of the competitive service, its functional
5 equivalent, or a substitute service in the geographical area
6 described by the proposed tariff has not filed, or has not
7 been required to file, such a study.

8 (e) ~~(d)~~ In the event any telecommunications service has
9 been classified and filed as competitive by the
10 telecommunications carrier, and has been offered or provided
11 on such basis, and the Commission subsequently determines
12 after investigation that such classification improperly
13 included services which were in fact noncompetitive, the
14 Commission shall have the power to determine and order
15 refunds to customers for any overcharges which may have
16 resulted from the improper classification, or to order such
17 other remedies provided to it under this Act, or to seek an
18 appropriate remedy or relief in a court of competent
19 jurisdiction.

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

1 shall begin on the date such investigation or hearing is
2 initiated by the filing of a Commission motion or a
3 complaint.

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

5 (220 ILCS 5/13-502.5 new)

6 Sec. 13-502.5. Services alleged to be improperly
7 classified.

8 (a) Any action or proceeding pending before the
9 Commission upon the effective date of this amendatory Act of
10 the 92nd General Assembly in which it is alleged that a
11 telecommunications carrier has improperly classified services
12 provided to end users as competitive shall be abated and
13 shall not be maintained or continued.

14 (b) All retail telecommunications services provided to
15 business end users by any telecommunications carrier subject,
16 as of May 1, 2001, to alternative regulation under an
17 alternative regulation plan pursuant to Section 13-506.1 of
18 this Act shall be classified as competitive as of the
19 effective date of this amendatory Act of the 92nd General
20 Assembly without further Commission review. Rates for retail
21 telecommunications services provided to business end users
22 with 4 or fewer access lines shall not exceed the rates the
23 carrier charged for those services on May 1, 2001. This
24 restriction upon the rates of retail telecommunications
25 services provided to business end users shall remain in force
26 and effect through July 1, 2005; provided, however, that
27 nothing in this Section shall be construed to prohibit
28 reduction of those rates. Rates for retail telecommunications
29 services provided to business end users with 5 or more access
30 lines shall not be subject to the restrictions set forth in
31 this subsection.

32 (c) All retail vertical services, as defined herein,
33 that are provided by a telecommunications carrier subject, as

1 of May 1, 2001, to alternative regulation under an
2 alternative regulation plan pursuant to Section 13-506.1 of
3 this Act shall be classified as competitive as of June 1,
4 2003 without further Commission review. Retail vertical
5 services shall include, for purposes of this Section,
6 services available on a subscriber's telephone line that the
7 subscriber pays for on a periodic or per use basis, but shall
8 not include caller identification and call waiting.

9 (d) Any action or proceeding pending before the
10 Commission upon the effective date of this amendatory Act of
11 the 92nd General Assembly, in which it is alleged that a
12 telecommunications carrier has improperly classified services
13 as competitive, shall be abated, and the services the
14 classification of which is at issue shall be deemed either
15 competitive or noncompetitive as set forth in this Section.
16 Any telecommunications carrier subject to an action or
17 proceeding in which it is alleged that the telecommunications
18 carrier has improperly classified services as competitive
19 shall be deemed liable to refund, and shall refund, the sum
20 of \$90,000,000 to that class or those classes of its
21 customers that were alleged to have paid rates in excess of
22 noncompetitive rates as the result of the alleged improper
23 classification. The telecommunications carrier shall make the
24 refund no later than 120 days after the effective date of
25 this amendatory Act of the 92nd General Assembly.

26 (e) Any telecommunications carrier subject to an action
27 or proceeding in which it is alleged that the
28 telecommunications carrier has improperly classified services
29 as competitive shall also pay the sum of \$15,000,000 to the
30 Digital Divide Elimination Fund established pursuant to
31 Section 5-20 of the Eliminate the Digital Divide Law, and
32 shall further pay the sum of \$15,000,000 to the Digital
33 Divide Elimination Infrastructure Fund established pursuant
34 to Section 13-301.3 of this Act. The telecommunications

1 carrier shall make each of these payments in 3 installments
2 of \$5,000,000, payable on July 1 of 2002, 2003, and 2004.
3 The telecommunications carrier shall have no further
4 accounting for these payments, which shall be used for the
5 purposes established in the Eliminate the Digital Divide Law.

6 (f) All other services shall be classified pursuant to
7 Section 13-502 of this Act.

8 (220 ILCS 5/13-509) (from Ch. 111 2/3, par. 13-509)

9 (Section scheduled to be repealed on July 1, 2001)

10 Sec. 13-509. Agreements for provisions of competitive
11 telecommunications services differing from tariffs. A
12 telecommunications carrier may negotiate with customers or
13 prospective customers to provide competitive
14 telecommunications service, and in so doing, may offer or
15 agree to provide such service on such terms and for such
16 rates or charges as are reasonable, without regard to any
17 tariffs it may have filed with the Commission with respect to
18 such services. Within 30 ~~10~~ business days after executing
19 any such agreement, the telecommunications carrier shall file
20 any contract or memorandum of understanding for the provision
21 of telecommunications service, which shall include the rates
22 or other charges, practices, rules or regulations applicable
23 to the agreed provision of such service. Any cost support
24 required to be filed with the agreement by some other Section
25 of this Act shall be filed within 30 business ~~calendar~~ days
26 after executing any such agreement. Where the agreement
27 contains the same rates, charges, practices, rules, and
28 regulations found in a single contract or memorandum already
29 filed by the telecommunications carrier with the Commission,
30 instead of filing the contract or memorandum, the
31 telecommunications carrier may elect to file a letter
32 identifying the new agreement and specifically referencing
33 the contract or memorandum already on file with the

1 Commission which contains the same provisions. A single
2 letter may be used to file more than one new agreement. Upon
3 filing its contract or memorandum, or letter, the
4 telecommunications carrier shall thereafter provide service
5 according to the terms thereof, unless the Commission finds,
6 after notice and hearing, that the continued provision of
7 service pursuant to such contract or memorandum would
8 substantially and adversely affect the financial integrity of
9 the telecommunications carrier or would violate any other
10 provision of this Act.

11 Any contract or memorandum entered into and filed
12 pursuant to the provisions of this Section may, in the
13 Commission's discretion, be accorded proprietary treatment.

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

15 (220 ILCS 5/13-514)

16 (Section scheduled to be repealed on July 1, 2001)

17 Sec. 13-514. Prohibited Actions of Telecommunications
18 Carriers. A telecommunications carrier shall not knowingly
19 impede the development of competition in any
20 telecommunications service market. The following prohibited
21 actions are considered per se impediments to the development
22 of competition; however, the Commission is not limited in any
23 manner to these enumerated impediments and may consider other
24 actions which impede competition to be prohibited:

25 (1) unreasonably refusing or delaying interconnections
26 or collocation or providing inferior connections to another
27 telecommunications carrier;

28 (2) unreasonably impairing the speed, quality, or
29 efficiency of services used by another telecommunications
30 carrier;

31 (3) unreasonably denying a request of another provider
32 for information regarding the technical design and features,
33 geographic coverage, information necessary for the design of

1 equipment, and traffic capabilities of the local exchange
2 network except for proprietary information unless such
3 information is subject to a proprietary agreement or
4 protective order;

5 (4) unreasonably delaying access in connecting another
6 telecommunications carrier to the local exchange network
7 whose product or service requires novel or specialized access
8 requirements;

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

11 (6) unreasonably acting or failing to act in a manner
12 that has a substantial adverse effect on the ability of
13 another telecommunications carrier to provide service to its
14 customers;

15 (7) unreasonably failing to offer services to customers
16 in a local exchange, where a telecommunications carrier is
17 certificated to provide service and has entered into an
18 interconnection agreement for the provision of local exchange
19 telecommunications services, with the intent to delay or
20 impede the ability of the incumbent local exchange
21 telecommunications carrier to provide inter-LATA
22 telecommunications services; and

23 (8) violating the terms of or unreasonably delaying
24 implementation of an interconnection agreement entered into
25 pursuant to Section 252 of the federal Telecommunications Act
26 of 1996 in a manner that unreasonably delays, increases the
27 cost, or impedes the availability of telecommunications
28 services to consumers;

29 (9) unreasonably refusing or delaying access to or
30 provision of operation support systems to another
31 telecommunications carrier or providing inferior operation
32 support systems to another telecommunications carrier;

33 (10) unreasonably failing to offer network elements that
34 the Commission or the Federal Communications Commission has

1 determined must be offered on an unbundled basis to another
2 telecommunications carrier in a manner consistent with the
3 Commission's or Federal Communications Commission's orders or
4 rules requiring such offerings;

- 5 (11) violating the obligations of Section 13-801; and
- 6 (12) violating an order of the Commission involving
7 telecommunications carriers.

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

9 (220 ILCS 5/13-515)

10 (Section scheduled to be repealed on July 1, 2001)

11 Sec. 13-515. Enforcement.

12 (a) The following expedited procedures shall be used to
13 enforce the provisions of Section 13-514 of this Act except
14 ~~as provided in subsection (b)~~. However, the Commission, the
15 complainant, and the respondent may mutually agree to adjust
16 the procedures established in this Section. ~~If the~~
17 ~~Commission determines, pursuant to subsection (b), that the~~
18 ~~procedural provisions of this Section do not apply, the~~
19 ~~complaint shall continue pursuant to the general complaint~~
20 ~~provisions of Article X.~~

21 (b) (Blank). ~~The provisions of this Section shall not~~
22 ~~apply to an allegation of a violation of item (8) of Section~~
23 ~~13-514 by a Bell operating company, as defined in Section 3~~
24 ~~of the federal Telecommunications Act of 1996, unless and~~
25 ~~until such company or its affiliate is authorized to provide~~
26 ~~inter-LATA services under Section 271(d) of the federal~~
27 ~~Telecommunications Act of 1996; provided, however, that a~~
28 ~~complaint setting forth a separate independent basis for a~~
29 ~~violation of Section 13-514 may proceed under this Section~~
30 ~~notwithstanding that the alleged acts or omissions may also~~
31 ~~constitute a violation of item (8) of Section 13-514.~~

32 (c) No complaint may be filed under this Section until
33 the complainant has first notified the respondent of the

1 alleged violation and offered the respondent 48 hours to
2 correct the situation. Provision of notice and the
3 opportunity to correct the situation creates a rebuttable
4 presumption of knowledge under Section 13-514. After the
5 filing of a complaint under this Section, the parties may
6 agree to follow the mediation process under Section 10-101.1
7 of this Act. The time periods specified in subdivision
8 (d)(7) of this Section shall be tolled during the time spent
9 in mediation under Section 10-101.1.

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

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

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

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

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

33 (5) If the answer or responsive pleading raises the
34 issue that the complaint violates subsection (i) of this

1 Section, the complainant may file a reply to such
2 allegation within 3 days after actual service of such
3 answer or responsive pleading. Within 4 days after the
4 time for filing a reply has expired, the hearing officer
5 or arbitrator shall either issue a written decision
6 dismissing the complaint as frivolous in violation of
7 subsection (i) of this Section including the reasons for
8 such disposition or shall issue an order directing that
9 the complaint shall proceed.

10 (6) A pre-hearing conference shall be held within
11 14 days after the date on which the complaint is filed.

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

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

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

28 (f) The Commission is authorized to obtain outside
29 resources including, but not limited to, arbitrators and
30 consultants for the purposes of the hearings authorized by
31 this Section. Any arbitrator or consultant obtained by the
32 Commission shall be approved by both parties to the hearing.
33 The cost of such outside resources including, but not limited
34 to, arbitrators and consultants shall be borne by the

1 parties. The Commission shall review the bill for
2 reasonableness and assess the parties for reasonable costs
3 dividing the costs according to the resolution of the
4 complaint brought under this Section. Such costs shall be
5 paid by the parties directly to the arbitrators, consultants,
6 and other providers of outside resources within 60 days after
7 receiving notice of the assessments from the Commission.
8 Interest at the statutory rate shall accrue after expiration
9 of the 60-day period. The Commission, arbitrators,
10 consultants, or other providers of outside resources may
11 apply to a court of competent jurisdiction for an order
12 requiring payment.

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

29 (h) If the Commission determines that there is an
30 imminent threat to competition or to the public interest, the
31 Commission may, notwithstanding any other provision of this
32 Act, seek temporary, preliminary, or permanent injunctive
33 relief from a court of competent jurisdiction either prior to
34 or after the hearing.

1 (i) A party shall not bring or defend a proceeding
2 brought under this Section or assert or controvert an issue
3 in a proceeding brought under this Section, unless there is a
4 non-frivolous basis for doing so. By presenting a pleading,
5 written motion, or other paper in complaint or defense of the
6 actions or inaction of a party under this Section, a party is
7 certifying to the Commission that to the best of that party's
8 knowledge, information, and belief, formed after a reasonable
9 inquiry of the subject matter of the complaint or defense,
10 that the complaint or defense is well grounded in law and
11 fact, and under the circumstances:

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

16 (2) the allegations and other factual contentions
17 have evidentiary support or, if specifically so
18 identified, are likely to have evidentiary support after
19 reasonable opportunity for further investigation or
20 discovery as defined herein.

21 (j) If, after notice and a reasonable opportunity to
22 respond, the Commission determines that subsection (i) has
23 been violated, the Commission shall impose appropriate
24 sanctions upon the party or parties that have violated
25 subsection (i) or are responsible for the violation. The
26 sanctions shall be not more than \$30,000 \$7,500, plus the
27 amount of expenses accrued by the Commission for conducting
28 the hearing. Payment of sanctions imposed under this
29 subsection shall be made to the Common School Fund within 30
30 days of imposition of such sanctions.

31 (k) An appeal of a Commission Order made pursuant to
32 this Section shall not effectuate a stay of the Order unless
33 a court of competent jurisdiction specifically finds that the
34 party seeking the stay will likely succeed on the merits,

1 that the party will suffer irreparable harm without the stay,
2 and that the stay is in the public interest.

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

4 (220 ILCS 5/13-516)

5 (Section scheduled to be repealed on July 1, 2001)

6 Sec. 13-516. Enforcement remedies Penalties for violation
7 of-a-Commission-order-relating-to prohibited actions by of
8 telecommunications carriers.

9 (a) In addition to any other provision of this Act, all
10 of the following remedies may be applied for violations of
11 Section 13-514:

12 (1) A Commission order directing the violating
13 telecommunications carrier to cease and desist from
14 violating the Act or a Commission order or rule.

15 (2) Notwithstanding any other provision of this
16 Act, the Commission may impose penalties of up to \$30,000
17 or 0.00825% of the carrier's gross intrastate annual
18 telecommunications revenue, whichever is greater, per
19 violation unless the carrier has fewer than 35,000
20 subscriber access lines, in which case the civil penalty
21 may not exceed \$2,000 per violation of-a-final-order-or
22 emergency-relief-order-issued-pursuant-to-Section--13-515
23 of--this--Act. Penalties under this Section shall attach
24 and begin to accrue from the day after the date upon
25 which the Commission enters an order determining that the
26 corporation or person has violated or is in violation of
27 the order, decision, rule, regulation, direction, or
28 requirement of the Commission, or part or provision
29 thereof; or upon the day after the date upon which the
30 Commission enters an order directing the corporation or
31 person to cease and desist from violating the order,
32 decision, rule, regulation, direction, or requirement of
33 the Commission, or part or provision thereof; whichever

1 is the earlier. Each day of a continuing offense shall be
 2 treated as a separate violation for purposes of levying
 3 any penalty under this Section. ~~The period for which the~~
 4 ~~fine shall be levied shall commence on the day the~~
 5 ~~Commission order requires compliance with the order and~~
 6 ~~shall continue until the party is in compliance with the~~
 7 ~~Commission order.~~

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

11 (b) The Commission may waive penalties imposed under
 12 subdivision subsection (a)(2) if it makes a written finding
 13 as to its reasons for waiving the penalty fine. Reasons for
 14 waiving a penalty fine shall include, but not be limited to,
 15 technological infeasibility and acts of God.

16 (c) The Commission shall establish by rule procedures
 17 for the imposition of remedies penalties under subsection (a)
 18 that, at a minimum, provide for notice, hearing and a written
 19 order relating to the imposition of remedies penalties.

20 (d) Unless enforcement of an order entered by the
 21 Commission under Section 13-515 otherwise directs or is
 22 stayed by the Commission or by an appellate court reviewing
 23 the Commission's order, at any time after 30 days from the
 24 entry of the order, either the Commission, or the
 25 telecommunications carrier found by the Commission to have
 26 been subjected to a violation of Section 13-514, or both, is
 27 authorized to petition a court of competent jurisdiction for
 28 an order at law or in equity requiring enforcement of the
 29 Commission order. The court shall determine (1) whether the
 30 Commission entered the order identified in the petition and
 31 (2) whether the violating telecommunications carrier has
 32 complied with the Commission's order. A certified copy of a
 33 Commission order shall be prima facie evidence that the
 34 Commission entered the order so certified. Pending the

1 court's resolution of the petition, the court may award
2 temporary or preliminary injunctive relief, or such other
3 equitable relief as may be necessary, to effectively
4 implement and enforce the Commission's order in a timely
5 manner.

6 If after a hearing the court finds that the Commission
7 entered the order identified in the petition and that the
8 violating telecommunications carrier has not complied with
9 the Commission's order, the court shall enter judgment
10 requiring the violating telecommunications carrier to comply
11 with the Commission's order and order such relief at law or
12 in equity as the court deems necessary to effectively
13 implement and enforce the Commission's order in a timely
14 manner. The court shall also award to the petitioner, or
15 petitioners, attorney's fees and costs, which shall be taxed
16 and collected as part of the costs of the case.

17 If the court finds that the violating telecommunications
18 carrier has failed to comply with the timely payment of
19 damages, attorney's fees, or costs ordered by the Commission,
20 the court shall order the violating telecommunications
21 carrier to pay to the telecommunications carrier or carriers
22 awarded the damages, fees, or costs by the Commission
23 additional damages for the sake of example and by way of
24 punishment for the failure to timely comply with the order of
25 the Commission, unless the court finds a reasonable basis for
26 the violating telecommunications carrier's failure to make
27 timely payment according to the Commission's order, in which
28 instance the court shall establish a new date for payment to
29 be made. The-Commission-is-authorized-to-apply-to-a-court-of
30 competent-jurisdiction-for--an--order--requiring--payment--of
31 penalties-imposed-under-subsection-(a)-.

32 (e) Payment of damages, attorney's fees, and costs
33 penalties imposed under subsection (a) shall be made within
34 30 days after issuance of the Commission order imposing the

1 penalties, damages, attorney's fees, or costs, unless
 2 otherwise directed by the Commission or a reviewing court
 3 under an appeal taken pursuant to Article X. Payment of
 4 penalties imposed under subsection (a) shall be made to the
 5 Common School Fund within 30 days of issuance of the
 6 Commission order imposing the penalties.

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

8 (220 ILCS 5/13-517 new)

9 Sec. 13-517. Provision of advanced telecommunications
 10 services.

11 (a) Every Incumbent Local Exchange Carrier
 12 (telecommunications carrier that offers or provides a
 13 noncompetitive telecommunications service) shall offer or
 14 provide advanced telecommunications services to not less than
 15 80% of its customers by January 1, 2005.

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

30 (1) is necessary:

31 (A) to avoid a significant adverse economic
 32 impact on users of telecommunications services
 33 generally;

1 (B) to avoid imposing a requirement that is
2 unduly economically burdensome;

3 (C) to avoid imposing a requirement that is
4 technically infeasible; or

5 (D) to avoid imposing a requirement that is
6 otherwise impractical to implement in exchanges with
7 low population density; and

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

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

12 The Commission may by rule establish standards for granting
13 any waiver of the requirements of this Section. The
14 Commission may, upon complaint or on its own motion, hold a
15 hearing to reconsider its grant of a waiver in whole or in
16 part. In the event that the Commission, following hearing,
17 determines that the affected ILEC no longer meets the
18 requirements of item (2) of this subsection, the Commission
19 shall by order rescind such waiver, in whole or in part. In
20 the event and to the degree the Commission rescinds such
21 waiver, the Commission shall establish an implementation
22 schedule for compliance with the requirements of this
23 Section.

24 (c) As used in this Section, "advanced
25 telecommunications services" means services capable of
26 supporting, in at least one direction, a speed in excess of
27 200 kilobits per second (kbps) to the network demarcation
28 point at the subscriber's premises.

29 (220 ILCS 5/13-518 new)

30 Sec. 13-518. Optional service packages.

31 (a) It is the intent of this Section to provide
32 unlimited local service packages at prices that will result
33 in savings for the average consumer. Each telecommunications

1 carrier that provides competitive and noncompetitive
2 services, and that is subject to an alternative regulation
3 plan pursuant to Section 13-506.1 of this Article, shall
4 provide, in addition to such other services as it offers, the
5 following optional packages of services for a fixed monthly
6 rate, which, along with the terms and conditions thereof, the
7 Commission shall review, pursuant to Article IX of this Act,
8 to determine whether such rates, terms, and conditions are
9 fair, just, and reasonable.

10 (1) A budget package, which shall consist of
11 residential access service and unlimited local calls.

12 (2) A flat rate package, which shall consist of
13 residential access service, unlimited local calls, and
14 the customer's choice of 2 vertical services as defined
15 in this Section.

16 (3) An enhanced flat rate package, which shall
17 consist of residential access service for 2 lines,
18 unlimited local calls, the customer's choice of 2
19 vertical services as defined in this Section, and
20 unlimited local toll service.

21 (b) Nothing in this Section or this Act shall be
22 construed to prohibit any telecommunications carrier subject
23 to this Section from charging customers who elect to take one
24 of the groups of services offered pursuant to this Section,
25 any applicable surcharges, fees, and taxes.

26 (c) The term "vertical services", when used in this
27 Section, includes, but is not necessarily limited to, call
28 waiting, call forwarding, 3-way calling, caller ID, call
29 tracing, automatic callback, repeat dialing, and voicemail.

30 (d) The service packages described in this Section shall
31 be defined as noncompetitive services.

32 (220 ILCS 5/13-712 new)

33 Sec. 13-712. Basic local exchange service quality;

1 customer credits.

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

6 (b) Definitions:

7 (1) "Alternative telephone service" means, except
8 where technically impracticable, a wireless telephone
9 capable of making local calls, and may also include, but
10 is not limited to, call forwarding, voice mail, or paging
11 services.

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

16 (A) services that employ advanced
17 telecommunications capability as defined in Section
18 706(c)(1) of the federal Telecommunications Act of
19 1996;

20 (B) vertical services;

21 (C) company official lines; and

22 (D) records work only.

23 (3) "Link Up" refers to the Link Up Assistance
24 program defined and established at 47 C.F.R. Section
25 54.411 et seq. as amended.

26 (c) The Commission shall promulgate service quality
27 rules for basic local exchange service, which may include
28 finances, penalties, customer credits, and other enforcement
29 mechanisms. In developing such service quality rules, the
30 Commission shall consider, at a minimum, the carrier's gross
31 annual intrastate revenue; the frequency, duration, and
32 recurrence of the violation; and the relative harm caused to
33 the affected customer or other users of the network. In
34 imposing fines, the Commission shall take into account

1 compensation or credits paid by the telecommunications
2 carrier to its customers pursuant to this Section in
3 compensation for the violation found pursuant to this
4 Section. These rules shall become effective within one year
5 after the effective date of this amendatory Act of the 92nd
6 General Assembly.

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

9 (1) Install basic local exchange service within 5
10 business days after receipt of an order from the customer
11 unless the customer requests an installation date that is
12 beyond 5 business days after placing the order for basic
13 service. If installation of service is requested on or
14 by a date more than 5 business days in the future, the
15 telecommunications carrier shall install service by the
16 date requested. A telecommunications carrier offering
17 basic local exchange service utilizing the network or
18 network elements of another carrier shall install new
19 lines for basic local exchange service within 3 business
20 days after provisioning of the line or lines by the
21 carrier whose network or network elements are being
22 utilized is complete. This subdivision (d)(1) does not
23 apply to the migration of a customer between
24 telecommunications carriers, so long as the customer
25 maintains dial tone.

26 (2) Restore basic local exchange service for a
27 customer within 24 hours of receiving notice that a
28 customer is out of service.

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

32 (e) The rules shall include provisions for customers to
33 be credited by the telecommunications carrier for violations
34 of basic local exchange service quality standards as

1 described in subsection (d). The credits shall be applied on
2 the statement issued to the customer for the next monthly
3 billing cycle following the violation or following the
4 discovery of the violation. The performance levels
5 established in subsection (c) are solely for the purposes of
6 consumer credits and shall not be used as performance levels
7 for the purposes of assessing penalties under Section 13-305.
8 At a minimum, the rules shall include the following:

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

30 (2) If a carrier fails to install basic local
31 exchange service within 5 business days after an
32 application for new service has been received by the
33 carrier, or fails to install the service by the
34 customer's requested installation date, if the requested

1 date was more than 5 business days after the date of the
2 application, the carrier shall waive 50% of any
3 installation charges, or where installation is pursuant
4 to the Link Up program, the carrier shall provide a
5 credit of \$25. If a carrier fails to install service
6 within 10 business days after the service application is
7 placed, or fails to install service within 5 business
8 days after the customer's requested installation date, if
9 the requested date was more than 5 business days after
10 the date of the order, the carrier shall waive 100% of
11 the installation charge, or in the absence of an
12 installation charge where installation is provided
13 pursuant to the Link Up program, the carrier shall
14 provide a credit of \$50. For each day that the failure
15 to install service continues beyond the initial 10
16 business days, or beyond 5 business days after the
17 customer's requested installation date, if the requested
18 date was more than 5 business days after the date of the
19 order, the carrier shall also provide either alternative
20 telephone service or an additional credit of \$20 per day,
21 at the customer's option until service is installed.

22 (3) If a carrier fails to keep a scheduled repair
23 or installation appointment when a customer premises
24 visit requires a customer to be present, the carrier
25 shall credit the customer \$50 per missed appointment. A
26 credit required by this subsection does not apply when
27 the carrier provides the customer with 24-hour notice of
28 its inability to keep the appointment.

29 (4) If the violation of a basic local exchange
30 service quality standard is caused by a carrier other
31 than the carrier providing retail service to the
32 customer, the carrier providing service to the customer
33 shall credit the customer as provided in this Section.
34 The carrier causing the violation shall reimburse the

1 carrier providing retail service the amount credited the
2 customer. When applicable, an interconnection agreement
3 shall govern compensation between the carrier causing the
4 violation, in whole or in part, and the retail carrier
5 providing the credit to the customer.

6 (5) When alternative telephone service is
7 appropriate, the customer may select one of the
8 alternative telephone services offered by the carrier.
9 The alternative telephone service shall be provided at no
10 cost to the customer for the provision of local service.

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

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

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

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

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

24 (v) occurs as a result of a customer request
25 to change the scheduled appointment, provided that
26 the violation is not further extended by the
27 carrier;

28 (vi) occurs as a result of a carrier's right
29 to refuse service to a customer as provided in
30 Commission rules; or

31 (vii) occurs as a result of a lack of
32 facilities where a customer requests service at a
33 geographically remote location, a customer requests
34 service in a geographic area where the carrier is

1 not currently offering service, or there are
2 insufficient facilities to meet the customer's
3 request for service, subject to a carrier's
4 obligation for reasonable facilities planning.

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

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

23 (g) The Commission shall establish and implement carrier
24 to carrier wholesale service quality rules and establish
25 remedies to ensure enforcement of the rules.

26 (220 ILCS 5/13-713 new)

27 Sec. 13-713. Consumer complaint resolution process.

28 (a) It is the intent of the General Assembly that
29 consumer complaints against telecommunications carriers shall
30 be concluded as expeditiously as possible consistent with the
31 rights of the parties thereto to the due process of law and
32 protection of the public interest.

33 (b) The Commission shall promulgate rules that permit

1 parties to resolve disputes through mediation. A consumer
2 may request mediation upon completion of the Commission's
3 informal complaint process and prior to the initiation of a
4 formal complaint as described in Commission rules.

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

10 (d) The Commission may retain the services of an
11 independent neutral mediator or trained Commission staff to
12 facilitate resolution of the consumer dispute. The mediation
13 process must be completed no later than 45 days after the
14 consumer requests mediation.

15 (e) If the parties reach agreement, the agreement shall
16 be reduced to writing at the conclusion of the mediation.
17 The writing shall contain mutual conditions, payment
18 arrangements, or other terms that resolve the dispute in its
19 entirety. If the parties are unable to reach agreement or
20 after 45 days, whichever occurs first, the consumer may file
21 a formal complaint with the Commission as described in
22 Commission rules.

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

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

30 (220 ILCS 5/13-801) (from Ch. 111 2/3, par. 13-801)

31 (Section scheduled to be repealed on July 1, 2001)

32 Sec. 13-801. Incumbent local exchange carrier
33 obligations.

1 (a) This Section provides additional State requirements
2 contemplated by, but not inconsistent with, Section 261(c) of
3 the federal Telecommunications Act of 1996, and not preempted
4 by orders of the Federal Communications Commission. A
5 telecommunications carrier not subject to regulation under an
6 alternative regulation plan pursuant to Section 13-506.1 of
7 this Act shall not be subject to the provisions of this
8 Section, to the extent that this Section imposes requirements
9 or obligations upon the telecommunications carrier that
10 exceed or are more stringent than those obligations imposed
11 by Section 251 of the federal Telecommunications Act of 1996
12 and regulations promulgated thereunder.

13 An incumbent local exchange carrier shall provide a
14 requesting telecommunications carrier with interconnection,
15 collocation, network elements, and access to operations
16 support systems on just, reasonable, and nondiscriminatory
17 rates, terms, and conditions to enable the provision of any
18 and all existing and new telecommunications services within
19 the LATA. The Commission shall require the incumbent local
20 exchange carrier to provide interconnection, collocation, and
21 network elements in any manner technically feasible to the
22 fullest extent possible to implement the maximum development
23 of competitive telecommunications services offerings. As used
24 in this Section, to the extent that interconnection,
25 collocation, or network elements have been deployed for or by
26 the incumbent local exchange carrier or one of its wireline
27 local exchange affiliates in any jurisdiction, it shall be
28 presumed that such is technically feasible in Illinois.

29 (b) Interconnection.

30 (1) An incumbent local exchange carrier shall
31 provide for the facilities and equipment of any
32 requesting telecommunications carrier's interconnection
33 with the incumbent local exchange carrier's network on
34 just, reasonable, and nondiscriminatory rates, terms, and

1 conditions:

2 (A) for the transmission and routing of local
3 exchange, and exchange access telecommunications
4 services;

5 (B) at any technically feasible point within
6 the incumbent local exchange carrier's network;
7 however, the incumbent local exchange carrier may
8 not require the requesting carrier to interconnect
9 at more than one technically feasible point within a
10 LATA; and

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

17 (2) An incumbent local exchange carrier shall make
18 available to any requesting telecommunications carrier,
19 to the extent technically feasible, those services,
20 facilities, or interconnection agreements or arrangements
21 that the incumbent local exchange carrier or any of its
22 incumbent local exchange subsidiaries or affiliates
23 offers in another state under the terms and conditions,
24 but not the stated rates, negotiated pursuant to Section
25 252 of the federal Telecommunications Act of 1996. Rates
26 shall be established in accordance with the requirements
27 of subsection (g) of this Section. An incumbent local
28 exchange carrier shall also make available to any
29 requesting telecommunications carrier, to the extent
30 technically feasible, and subject to the unbundling
31 provisions of Section 251(d)(2) of the federal
32 Telecommunications Act of 1996, those unbundled network
33 element or interconnection agreements or arrangements
34 that a local exchange carrier affiliate of the incumbent

1 local exchange carrier obtains in another state from the
2 incumbent local exchange carrier in that state, under the
3 terms and conditions, but not the stated rates, obtained
4 through negotiation, or through an arbitration initiated
5 by the affiliate, pursuant to Section 252 of the federal
6 Telecommunications Act of 1996. Rates shall be
7 established in accordance with the requirements of
8 subsection (g) of this Section.

9 (c) Collocation. An incumbent local exchange carrier
10 shall provide for physical or virtual collocation of any type
11 of equipment for interconnection or access to network
12 elements at the premises of the incumbent local exchange
13 carrier on just, reasonable, and nondiscriminatory rates,
14 terms, and conditions. The equipment shall include, but is
15 not limited to, optical transmission equipment, multiplexers,
16 remote switching modules, and cross-connects between the
17 facilities or equipment of other collocated carriers. The
18 equipment shall also include microwave transmission
19 facilities on the exterior and interior of the incumbent
20 local exchange carrier's premises used for interconnection
21 to, or for access to network elements of, the incumbent local
22 exchange carrier or a collocated carrier, unless the
23 incumbent local exchange carrier demonstrates to the
24 Commission that it is not practical due to technical reasons
25 or space limitations. An incumbent local exchange carrier
26 shall allow, and provide for, the most reasonably direct and
27 efficient cross-connects, that are consistent with safety and
28 network reliability standards, between the facilities of
29 collocated carriers. An incumbent local exchange carrier
30 shall also allow, and provide for, cross connects between a
31 noncollocated telecommunications carrier's network elements
32 platform, or a noncollocated telecommunications carrier's
33 transport facilities, and the facilities of any collocated
34 carrier, consistent with safety and network reliability

1 standards.

2 (d) Network elements. The incumbent local exchange
3 carrier shall provide to any requesting telecommunications
4 carrier, for the provision of an existing or a new
5 telecommunications service, nondiscriminatory access to
6 network elements on any unbundled or bundled basis, as
7 requested, at any technically feasible point on just,
8 reasonable, and nondiscriminatory rates, terms, and
9 conditions.

10 (1) An incumbent local exchange carrier shall
11 provide unbundled network elements in a manner that
12 allows requesting telecommunications carriers to combine
13 those network elements to provide a telecommunications
14 service.

15 (2) An incumbent local exchange carrier shall not
16 separate network elements that are currently combined,
17 except at the explicit direction of the requesting
18 carrier.

19 (3) Upon request, an incumbent local exchange
20 carrier shall combine any sequence of unbundled network
21 elements that it ordinarily combines for itself to
22 provide local exchange services to residence and small
23 business customers (customers with 4 or fewer access
24 lines), including but not limited to, unbundled network
25 elements identified in The Draft of the Proposed
26 Ameritech Illinois 271 Amendment (I2A) found in Schedule
27 SJA-4 attached to Exhibit 3.1 filed by Illinois Bell
28 Telephone Company on or about March 28, 2001 with the
29 Illinois Commerce Commission under Illinois Commerce
30 Commission Docket Number 00-0700. The Commission shall
31 determine those network elements the incumbent local
32 exchange carrier ordinarily combines for itself if there
33 is a dispute between the incumbent local exchange carrier
34 and the requesting telecommunications carrier under this

1 subdivision of this Section of this Act.

2 The incumbent local exchange carrier shall be
3 entitled to recover from the requesting
4 telecommunications carrier any just and reasonable
5 special construction costs incurred in combining such
6 unbundled network elements (i) if such costs are not
7 already included in the established price of providing
8 the network elements, (ii) if the incumbent local
9 exchange carrier charges such costs to its retail
10 telecommunications end users, and (iii) if fully
11 disclosed in advance to the requesting telecommunications
12 carrier. The Commission shall determine whether the
13 incumbent local exchange carrier is entitled to any
14 special construction costs if there is a dispute between
15 the incumbent local exchange carrier and the requesting
16 telecommunications carrier under this subdivision of this
17 Section of this Act.

18 (4) A telecommunications carrier may use a network
19 elements platform consisting solely of combined network
20 elements of the incumbent local exchange carrier to
21 provide end to end telecommunications service for the
22 provision of existing and new local exchange,
23 interexchange that includes local, local toll, and
24 intraLATA toll telecommunications services to its own end
25 user customers within the LATA without the requesting
26 telecommunications carrier's provision or use of any
27 other facilities or functionalities.

28 (5) The Commission shall establish maximum time
29 periods for the incumbent local exchange carrier's
30 provision of network elements. The maximum time period
31 shall be no longer than the time period for the incumbent
32 local exchange carrier's provision of comparable retail
33 telecommunications services utilizing those network
34 elements. The Commission may establish a maximum time

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

25 In measuring the incumbent local exchange carrier's
26 actual performance, the Commission shall ensure that
27 occurrences beyond the control of the incumbent local
28 exchange carrier that adversely affect the incumbent
29 local exchange carrier's performance are excluded when
30 determining actual performance levels. Such occurrences
31 shall be determined by the Commission, but at a minimum
32 must include work stoppage or other labor actions and
33 acts of war. Exclusions shall also be made for
34 performance that is governed by agreements approved by

1 the Commission and containing timeframes for the same or
2 similar measures or for when a requesting
3 telecommunications carrier requests a longer time
4 interval.

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

26 Absent a contrary agreement between the
27 telecommunications carriers entered into after the
28 effective date of this amendatory Act of the 92nd General
29 Assembly, as of 12:01 a.m. on the third business day
30 after placing the order for a network elements platform,
31 the requesting telecommunications carrier shall be the
32 presubscribed primary local exchange carrier for that end
33 user line and shall be entitled to receive, or to direct
34 the disposition of, all revenues for all services

1 utilizing the network elements in the platform, unless it
2 is established that the end user of the existing local
3 exchange service did not authorize the requesting
4 telecommunications carrier to make the request.

5 (e) Operations support systems. The Commission shall
6 establish minimum standards with just, reasonable, and
7 nondiscriminatory rates, terms, and conditions for the
8 preordering, ordering, provisioning, maintenance and repair,
9 and billing functions of the incumbent local exchange
10 carrier's operations support systems provided to other
11 telecommunications carriers. In no instance shall the
12 incumbent local exchange carrier's operations support systems
13 as provided to other telecommunications carriers be less than
14 functionally and effectively the same operations support
15 systems provided by the incumbent local exchange carrier to
16 its own, its subsidiaries', and its affiliates' retail
17 telecommunications services.

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

1 charges, terms, or conditions available only to residence
2 customers.

3 (g) Cost based rates. Interconnection, collocation,
4 network elements, and operations support systems shall be
5 provided by the incumbent local exchange carrier to
6 requesting telecommunications carriers at cost based rates.
7 The immediate implementation and provisioning of
8 interconnection, collocation, network elements, and
9 operations support systems shall not be delayed due to any
10 lack of determination by the Commission as to the cost based
11 rates. When cost based rates have not been established,
12 within 30 days after the filing of a petition for the setting
13 of interim rates, or after the Commission's own motion, the
14 Commission shall provide for interim rates that shall remain
15 in full force and effect until the cost based rate
16 determination is made, or the interim rate is modified, by
17 the Commission.

18 (h) Rural exemption. This Section does not apply to
19 certain rural telephone companies as described in 47 U.S.C.
20 251(f).

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

31 (j) Special access circuits. Nothing in this amendatory
32 Act of the 92nd General Assembly is intended to allow the
33 provision of a special access circuit through a combination
34 of network elements.

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

4 ~~The Commission shall prepare and issue an annual report on~~
5 ~~the status of the telecommunications industry and Illinois~~
6 ~~regulation thereof on January 31 of each year beginning in~~
7 ~~1986. Such report shall include:~~

8 (a) ~~A review of regulatory decisions and actions~~
9 ~~from the preceding year and a description of pending~~
10 ~~cases involving significant telecommunications carriers~~
11 ~~or issues;~~

12 (b) ~~a description of the telecommunications~~
13 ~~industry and changes or trends therein, including the~~
14 ~~number, type and size of firms offering~~
15 ~~telecommunications services, whether or not such firms~~
16 ~~are subject to State regulation, telecommunications~~
17 ~~technologies in place and under development, variations~~
18 ~~in the geographic availability of services and in prices~~
19 ~~for services, and penetration levels of subscriber access~~
20 ~~to local exchange service in each exchange and trends~~
21 ~~related thereto;~~

22 (c) ~~the status of compliance by carriers and the~~
23 ~~Commission with the requirements of this Article;~~

24 (d) ~~the effects, and likely effects of Illinois~~
25 ~~regulatory policies and practices, including those~~
26 ~~described in this Article, on telecommunications~~
27 ~~carriers, services and customers;~~

28 (e) ~~any recommendations for legislative change~~
29 ~~which are adopted by the Commission and which the~~
30 ~~Commission believes are in the interest of Illinois~~
31 ~~telecommunications customers; and~~

32 (f) ~~any other information or analysis which the~~
33 ~~Commission is required to provide by this Article or~~
34 ~~deems necessary to provide.~~

1 The--Commission's--report--shall--be--filed--with--the--Joint
2 Committee--on--Legislative--Support--Services,--the--Governor,--and
3 the--Public--Counsel--and--shall--be--publicly--available.--The--Joint
4 Committee--on--Legislative--Support--Services--shall--conduct
5 public--hearings--on--the--report--and--any--recommendations
6 therein.

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

8 (220 ILCS 5/13-902)

9 (Section scheduled to be repealed on July 1, 2001)

10 Sec. 13-902. Authorization and verification of a
11 subscriber's change in telecommunications carrier.

12 (a) Definitions; scope.

13 (1) "Submitting carrier" means any
14 telecommunications carrier that requests on behalf of a
15 subscriber that the subscriber's telecommunications
16 carrier be changed and seeks to provide retail services
17 to the end user subscriber.

18 (2) "Executing carrier" means any
19 telecommunications carrier that effects a request that a
20 subscriber's telecommunications carrier be changed.

21 (3) "Authorized carrier" means any
22 telecommunications carrier that submits a change, on
23 behalf of a subscriber, in the subscriber's selection of
24 a provider of telecommunications service with the
25 subscriber's authorization verified in accordance with
26 the procedures specified in this Section.

27 (4) "Unauthorized carrier" means any
28 telecommunications carrier that submits a change, on
29 behalf of a subscriber, in the subscriber's selection of
30 a provider of telecommunications service but fails to
31 obtain the subscriber's authorization verified in
32 accordance with the procedures specified in this Section.

33 (5) "Unauthorized change" means a change in a

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

5 (6) "Subscriber" means:

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

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

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

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

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

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

24 (1) No telecommunications carrier shall submit or
25 execute a change on behalf of a subscriber in the
26 subscriber's selection of a provider of
27 telecommunications service except in accordance with the
28 procedures prescribed in this subsection.

29 (2) No submitting carrier shall submit a change on
30 the behalf of a subscriber in the subscriber's selection
31 of a provider of telecommunications service prior to
32 obtaining:

33 (A) authorization from the subscriber; and

34 (B) verification of that authorization in

1 accordance with the procedures prescribed in this
2 Section.

3 The submitting carrier shall maintain and preserve
4 records of verification of subscriber authorization for a
5 minimum period of 2 years after obtaining such verification.

6 (3) An executing carrier shall not verify the
7 submission of a change in a subscriber's selection of a
8 provider of telecommunications service received from a
9 submitting carrier. For an executing carrier, compliance
10 with the procedures described in this Section shall be
11 defined as prompt execution, without any unreasonable
12 delay, of changes that have been verified by a submitting
13 carrier.

14 (4) Commercial mobile radio services (CMRS)
15 providers shall be excluded from the verification
16 requirements of this Section as long as they are not
17 required to provide equal access to common carriers for
18 the provision of telephone toll services, in accordance
19 with 47 U.S.C. 332(c)(8).

20 (5) Where a telecommunications carrier is selling
21 more than one type of telecommunications service (e.g.,
22 local exchange, intraLATA/intrastate toll,
23 interLATA/interstate toll, and international toll), that
24 carrier must obtain separate authorization from the
25 subscriber for each service sold, although the
26 authorizations may be made within the same solicitation.
27 Each authorization must be verified separately from any
28 other authorizations obtained in the same solicitation.
29 Each authorization must be verified in accordance with
30 the verification procedures prescribed in this Section.

31 (6) No telecommunications carrier shall submit a
32 preferred carrier change order unless and until the order
33 has been confirmed in accordance with one of the
34 following procedures:

1 (A) The telecommunications carrier has
2 obtained the subscriber's written or electronically
3 signed authorization in a form that meets the
4 requirements of subsection (d).

5 (B) The telecommunications carrier has
6 obtained the subscriber's electronic authorization
7 to submit the preferred carrier change order. Such
8 authorization must be placed from the telephone
9 number or numbers on which the preferred carrier is
10 to be changed and must confirm the information in
11 subsections (b) and (c) of this Section.
12 Telecommunications carriers electing to confirm
13 sales electronically shall establish one or more
14 toll-free telephone numbers exclusively for that
15 purpose. Calls to the toll-free telephone numbers
16 must connect a subscriber to a voice response unit,
17 or similar mechanism, that records the required
18 information regarding the preferred carrier change,
19 including automatically recording the originating
20 automatic number identification.

21 (C) An appropriately qualified independent
22 third party has obtained, in accordance with the
23 procedures set forth in paragraphs (7) through (10)
24 of this subsection, the subscriber's oral
25 authorization to submit the preferred carrier change
26 order that confirms and includes appropriate
27 verification data. The independent third party must
28 not be owned, managed, controlled, or directed by
29 the carrier or the carrier's marketing agent; must
30 not have any financial incentive to confirm
31 preferred carrier change orders for the carrier or
32 the carrier's marketing agent; and must operate in a
33 location physically separate from the carrier or the
34 carrier's marketing agent.

1 (7) Methods of third party verification. Automated
2 third party verification systems and three-way conference
3 calls may be used for verification purposes so long as
4 the requirements of paragraphs (8) through (10) of this
5 subsection are satisfied.

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

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

23 (10) Other requirements for third party
24 verification. All third party verifications shall be
25 conducted in the same language that was used in the
26 underlying sales transaction and shall be recorded in
27 their entirety. In accordance with the procedures set
28 forth in paragraph (2)(B) of this subsection, submitting
29 carriers shall maintain and preserve audio records of
30 verification of subscriber authorization for a minimum
31 period of 2 years after obtaining such verification.
32 Automated systems must provide consumers with an option
33 to speak with a live person at any time during the call.

34 (11) Telecommunications carriers must provide

1 subscribers the option of using one of the authorization
2 and verification procedures specified in paragraph (6) of
3 this subsection in addition to an electronically signed
4 authorization and verification procedure under paragraph
5 (6)(A) of this subsection.

6 (d) Letter of agency form and content.

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

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

22 (3) The letter of agency shall not be combined on
23 the same document, screen, or webpage with inducements of
24 any kind.

25 (4) Notwithstanding paragraphs (2) and (3) of this
26 subsection, the letter of agency may be combined with
27 checks that contain only the required letter of agency
28 language as prescribed in paragraph (5) of this
29 subsection and the necessary information to make the
30 check a negotiable instrument. The letter of agency check
31 shall not contain any promotional language or material.
32 The letter of agency check shall contain in easily
33 readable, bold-face type on the front of the check, a
34 notice that the subscriber is authorizing a preferred

1 carrier change by signing the check. The letter of agency
2 language shall be placed near the signature line on the
3 back of the check.

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

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

11 (B) The decision to change the preferred
12 carrier from the current telecommunications carrier
13 to the soliciting telecommunications carrier;

14 (C) That the subscriber designates (insert the
15 name of the submitting carrier) to act as the
16 subscriber's agent for the preferred carrier change;

17 (D) That the subscriber understands that only
18 one telecommunications carrier may be designated as
19 the subscriber's interstate or interLATA preferred
20 interexchange carrier for any one telephone number.
21 To the extent that a jurisdiction allows the
22 selection of additional preferred carriers (e.g.,
23 local exchange, intraLATA/intrastate toll,
24 interLATA/interstate toll, or international
25 interexchange) the letter of agency must contain
26 separate statements regarding those choices,
27 although a separate letter of agency for each choice
28 is not necessary; and

29 (E) That the subscriber may consult with the
30 carrier as to whether a fee will apply to the change
31 in the subscriber's preferred carrier.

32 (6) Any carrier designated in a letter of agency as
33 a preferred carrier must be the carrier directly setting
34 the rates for the subscriber.

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

4 (8) If any portion of a letter of agency is
5 translated into another language then all portions of the
6 letter of agency must be translated into that language.
7 Every letter of agency must be translated into the same
8 language as any promotional materials, oral descriptions,
9 or instructions provided with the letter of agency.

10 (9) Letters of agency submitted with an
11 electronically signed authorization must include the
12 consumer disclosures required by Section 101(c) of the
13 Electronic Signatures in Global and National Commerce
14 Act.

15 (10) A telecommunications carrier shall submit a
16 preferred carrier change order on behalf of a subscriber
17 within no more than 60 days after obtaining a written or
18 electronically signed letter of agency.

19 (11) If a telecommunications carrier uses a letter
20 of agency, the carrier shall send a letter to the
21 subscriber using first class mail, postage prepaid, no
22 later than 10 days after the telecommunications carrier
23 submitting the change in the subscriber's
24 telecommunications carrier is on notice that the change
25 has occurred. The letter must inform the subscriber of
26 the details of the telecommunications carrier change and
27 provide the subscriber with a toll free number to call
28 should the subscriber wish to cancel the change.

29 (e) A switch in a subscriber's selection of a provider
30 of telecommunications service that complies with the rules
31 promulgated by the Federal Communications Commission and any
32 amendments thereto shall be deemed to be in compliance with
33 the provisions of this Section.

34 (f) The Commission shall promulgate any rules necessary

1 to administer this Section. The rules promulgated under this
2 Section shall comport with the rules, if any, promulgated by
3 the Attorney General pursuant to the Consumer Fraud and
4 Deceptive Business Practices Act and with any rules
5 promulgated by the Federal Communications Commission.

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

31 (1) Require the violating telecommunications
32 carrier to refund to the subscriber all fees and charges
33 collected from the subscriber for services up to the time
34 the subscriber receives written notice of the fact that

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

13 (2) Require the violating telecommunications
14 carrier to refund to the subscriber charges collected in
15 excess of those that would have been charged by the
16 subscriber's authorized telecommunications carrier.

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

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

30 (5) Issue a cease and desist order.

31 (6) For a pattern of violation of this Section or
32 for intentionally violating a cease and desist order,
33 revoke the violating telecommunications carrier's
34 certificate of service authority. Rules-for-verification

1 of a subscriber's change in telecommunications carrier or
2 addition to a subscriber's service.

3 (a) As used in this Section, "subscriber" means a
4 telecommunications carrier's retail business customer served
5 by not more than 20 lines or a retail residential customer,
6 and "telecommunications carrier" has the meaning given in
7 Section 13-202 of the Public Utilities Act, except that
8 "telecommunications carrier" does not include a provider of
9 commercial mobile radio services (as defined by 47 U.S.C.
10 332(d)(1)).

11 (b) A subscriber's presubscription of a primary exchange
12 or interexchange telecommunications carrier may not be
13 switched to another telecommunications carrier without the
14 subscriber's authorization.

15 (c) A telecommunications carrier shall not effectuate a
16 change to a subscriber's telecommunications services by
17 providing an additional telecommunications service that
18 results in an additional monthly charge to the subscriber
19 (herein referred to as an "additional telecommunications
20 service") without following the subscriber notification
21 procedures set forth in this Section. An "additional
22 telecommunications service" does not include making available
23 any additional telecommunications services on a subscriber's
24 line when the subscriber activates and pays for the services
25 on a per-use basis.

26 (d) It is the responsibility of the company or carrier
27 requesting a change in a subscriber's telecommunications
28 carrier to obtain the subscriber's authorization for the
29 change whenever the company or carrier acts as a subscriber's
30 agent with respect to the change.

31 (e) A company or telecommunications carrier submitting a
32 change in a subscriber's primary exchange or interexchange
33 telecommunications carrier as described in subsection (d)
34 shall be solely responsible for providing written notice of

1 the change to the subscriber in accordance with this Section,
2 or for obtaining verification of the subscriber's assent to
3 the change in accordance with this Section. In addition, a
4 telecommunications carrier that provides any additional
5 telecommunications service to a subscriber shall be solely
6 responsible for providing written notice of the additional
7 telecommunications service to the subscriber in accordance
8 with this Section, or for obtaining verification of the
9 subscriber's assent to the additional telecommunications
10 service in accordance with this Section.

11 (1) If the company or telecommunications carrier
12 elects to provide written notice in accordance with this
13 Section, the notice shall be provided as follows:

14 (A) A letter to the subscriber must be mailed
15 using first-class mail, postage prepaid, no later
16 than 10 days after the telecommunications carrier
17 submitting the change in the subscriber's primary
18 exchange or interexchange telecommunications carrier
19 is on notice that the change has occurred or no
20 later than 10 days after initiation of an additional
21 telecommunications service has occurred.

22 (B) The letter must be a separate document
23 sent for the sole purpose of describing the changes
24 or additions authorized by the subscriber.

25 (C) The letter must be printed with 10-point
26 or larger type and contain clear and plain language
27 that confirms the details of a change in the
28 presubscribed telecommunications carrier or of the
29 addition of the telecommunications service and
30 provides the subscriber with a toll-free number to
31 call should the subscriber wish to cancel the change
32 or make additional changes.

33 (2) If the company or telecommunications carrier
34 elects to obtain verification in accordance with this

1 Section 7 verification shall be obtained as follows:

2 (A) Verification shall be obtained by an
3 independent third party that:

4 (i) operates from a facility physically
5 separate from that of the telecommunications
6 carrier or company seeking the change or
7 addition of service;

8 (ii) is not directly or indirectly
9 managed, controlled, directed, or owned wholly
10 or in part by the telecommunications carrier or
11 company seeking the change or addition of
12 telecommunications services;

13 (iii) does not derive commissions or
14 compensation based upon the number of sales,
15 changes, or additions confirmed; and

16 (iv) shall retain records of the
17 confirmation of sales or changes for 24 months.

18 (B) The third party verification agent shall
19 state to the subscriber, and shall obtain the
20 subscriber's acknowledgement to, the following
21 disclosures:

22 (i) the consumer's name, address, and the
23 telephone numbers of all telephone lines that
24 will be changed or to which additional
25 telecommunications services will be added;

26 (ii) the names of the telecommunications
27 carrier or company that is replacing the
28 previous presubscribed telecommunications
29 carrier or adding a telecommunications service
30 to the subscriber's account and, where
31 applicable, the name of the carriers being
32 replaced;

33 (iii) in cases where verification is
34 sought for the subscriber's presubscribed

1 telecommunications carrier, that for each line
2 the subscriber can designate only one
3 presubscribed telecommunications carrier to
4 handle each of the subscriber's local, long
5 distance, or local toll service depending upon
6 which presubscribed telecommunications service
7 or services are being verified; and

8 (iv) the fact that a fee may be imposed
9 on the subscriber for the change of primary
10 exchange or interexchange telecommunications
11 carriers or that a monthly recurring fee may be
12 charged for the additional service, if that is
13 the case.

14 (C) The third party verification agent shall
15 obtain verification no later than 3 days after the
16 carrier submitting a change in the subscriber's
17 primary exchange or interexchange telecommunications
18 carrier is on notice that the change has occurred or
19 no later than 3 days after initiation of an
20 additional telecommunications service has occurred.

21 (D) The telecommunications company or carrier
22 seeking to implement the change in service or
23 additional service may connect the subscriber to the
24 verification agent, provided that all of the
25 requirements for verification by a third party as
26 set forth in this Section are otherwise complied
27 with fully.

28 (3) The verification or notice requirements
29 described in this subsection shall apply to all changes
30 to a subscriber's presubscription of a primary exchange
31 or interexchange telecommunications carrier, whether the
32 change was initiated through an inbound call initiated by
33 the customer or outbound telemarketing. Where a
34 subscriber's telecommunications services are changed by

1 the provision of an additional telecommunications
2 service, the verification or notice requirements
3 described in this subsection shall apply if the change
4 was initiated through outbound telemarketing. Where a
5 subscriber's telecommunications services are changed by
6 the provision of an additional telecommunications service
7 and the change was initiated through inbound
8 telemarketing, the telecommunications carrier shall
9 comply with all rules or regulations promulgated by the
10 Federal Communications Commission.

11 (4) Verifications conducted or obtained in a manner
12 not in compliance with this Section or notice given in a
13 manner not in compliance with this Section shall be void
14 and without effect.

15 (f) The Commission shall promulgate any rules necessary
16 to ensure that the primary exchange or interexchange
17 telecommunications carrier of a subscriber is not changed to
18 another telecommunications carrier or that an additional
19 telecommunications service is not added without the
20 subscriber's authorization. The rules promulgated under this
21 Section shall comport with the rules, if any, promulgated by
22 the Attorney General pursuant to the Consumer Fraud and
23 Deceptive Business Practices Act and with any rules
24 promulgated by the Federal Communications Commission.

25 (g) Complaints may be filed with the Commission under
26 this Section by a subscriber whose primary exchange or
27 interexchange carrier has been changed to another
28 telecommunications carrier without authorization or who has
29 been provided an additional telecommunications service not
30 ordered by the subscriber, by a telecommunications carrier
31 that has been removed as a subscriber's primary exchange or
32 interexchange telecommunications carrier without
33 authorization, or by the Commission on its own motion. Upon
34 filing of the complaint, the parties may mutually agree to

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

14 (1)--In---case---of--an--unauthorized--change--in--a
 15 subscriber's---primary---exchange---or---interexchange
 16 telecommunications---carrier,---require---the---violating
 17 telecommunications--carrier--to--refund-to-the-subscriber
 18 all-fees-and-charges-collected-from--the--subscriber--for
 19 services--up--to-the-time-the-subscriber-receives-written
 20 notice--of--the--fact--that--the--violating--carrier---is
 21 providing--telecommunications--service-to-the-subscriber.
 22 For-a-carrier-that-elects-to-provide-written-notice-of--a
 23 change---in---a---subscriber's---primary---exchange---or
 24 interexchange-carrier,--notice-consistent--with--paragraph
 25 (1)--of--subsection-(e)-shall-be-deemed-to--be-receipt-of
 26 notice-by-the-subscriber-for-purposes-of-this--paragraph.
 27 For--a--carrier--that--elects-to-obtain-verification-of-a
 28 change---in---a---subscriber's---primary---exchange---or
 29 interexchange--carrier--consistent--with-paragraph-(2)-of
 30 subsection--(e)--of--this--Section,--either---the---first
 31 correspondence---from---the--carrier--that--notifies--the
 32 customer-of-the-change-or-the-subscriber's-first-bill-for
 33 services,--whichever-is-mailed-first,--shall-be--deemed--to
 34 be--receipt--of--notice-by-the-subscriber-for-purposes-of

1 this-paragraph.--The-Commission-may--order--the--remedial
2 action--outlined--in--this--subsection-only-to-the-extent
3 that-the-same-remedial--action--is--allowed--pursuant--to
4 rules---or---regulations---promulgated---by--the--Federal
5 Communications-Commission.

6 (2)--In--case--of--an--unauthorized--change--in--the
7 primary--exchange--or--interexchange---telecommunications
8 carrier,--require-the-violating-telecommunications-carrier
9 to--refund--to-the-subscriber-charges-collected-in-excess
10 of-those-that-would-have-been-charged-by-the-subscriber's
11 chosen-telecommunications-carrier.

12 (3)--In--case--of--an--unauthorized--change--in--the
13 primary--exchange--or--interexchange---telecommunications
14 carrier,--require-the-violating-telecommunications-carrier
15 to--pay--to--the--subscriber's--chosen-telecommunications
16 carrier-the-amount-the-chosen-telecommunications--carrier
17 would--have-collected-for-the-telecommunications-service.
18 The-Commission-is-authorized-to-reduce--this--payment--by
19 any---amount---already---paid---by---the---violating
20 telecommunications-carrier--to--the--subscriber's--chosen
21 telecommunications--carrier--for-those-telecommunications
22 services.

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

27 (5)--In--the--case--of--an--unauthorized--additional
28 telecommunications-service,--require-the-violating-carrier
29 to---refund-or-cancel-all-charges-for-telecommunications
30 services-or-products---provided--without--a--subscriber's
31 authorization.

32 (6)--Issue-a-cess-and-desist-order.

33 (7)--For--a-pattern-of-violation-of-this--Section-or
34 for-intentionally-violating-a--cess-and--desist--order,

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

3 (Source: P.A. 89-497, eff. 6-27-96; 90-610, eff. 7-1-98.)

4 (220 ILCS 5/13-903 new)

5 Sec. 13-903. Authorization, verification or
6 notification, and dispute resolution for covered product and
7 service charges on the telephone bill.

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

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

12 (2) "Telecommunications carrier" has the meaning
13 given in Section 13-202 of the Public Utilities Act and
14 includes agents and employees of a telecommunications
15 carrier, except that "telecommunications carrier" does
16 not include a provider of commercial mobile radio
17 services (as defined by 47 U.S.C. 332(d)(1)).

18 (b) Applicability of Section. This Section does not
19 apply to:

20 (1) changes in a subscriber's local exchange
21 telecommunications service or interexchange
22 telecommunications service;

23 (2) message telecommunications charges that are
24 initiated by dialing 1+, 0+, 0-, 1010XXX, or collect
25 calls and charges for video services if the service
26 provider has the necessary call detail record to
27 establish the billing for the call or service; and

28 (3) telecommunications services available on a
29 subscriber's line when the subscriber activates and pays
30 for the services on a per use basis.

31 (c) Requirements for billing authorized charges. A
32 telecommunications carrier shall meet all of the following
33 requirements before submitting charges for any product or

1 service to be billed on any subscriber's telephone bill:

2 (1) Inform the subscriber. The telecommunications
3 carrier offering the product or service must thoroughly
4 inform the subscriber of the product or service being
5 offered, including all associated charges, and explicitly
6 inform the subscriber that the associated charges for the
7 product or service will appear on the subscriber's
8 telephone bill.

9 (2) Obtain subscriber authorization. The
10 subscriber must have clearly and explicitly consented to
11 obtaining the product or service offered and to having
12 the associated charges appear on the subscriber's
13 telephone bill. The consent must be verified by the
14 service provider in accordance with subsection (d) of
15 this Section. A record of the consent must be maintained
16 by the telecommunications carrier offering the product or
17 service for at least 24 months immediately after the
18 consent and verification were obtained.

19 (d) Verification or notification. Except in
20 subscriber-initiated transactions with a certificated
21 telecommunications carrier for which the telecommunications
22 carrier has the appropriate documentation, the
23 telecommunications carrier, after obtaining the subscriber's
24 authorization in the required manner, shall either verify the
25 authorization or notify the subscriber as follows:

26 (1) Independent third-party verification:

27 (A) Verification shall be obtained by an
28 independent third party that:

29 (i) operates from a facility physically
30 separate from that of the telecommunications
31 carrier;

32 (ii) is not directly or indirectly
33 managed, controlled, directed, or owned wholly
34 or in part by the telecommunications carrier or

1 the carrier's marketing agent; and

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

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

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

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

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

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

23 (v) the name and customer service
24 telephone number of the telecommunications
25 carrier.

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

29 (2) Notification. Written notification shall be
30 provided as follows:

31 (A) the telecommunications carrier shall mail
32 a letter to the subscriber using first class mail,
33 postage prepaid, no later than 10 days after
34 initiation of the product or service;

1 (B) the letter shall be a separate document
2 sent for the sole purpose of describing the product
3 or service of the telecommunications carrier;

4 (C) the letter shall be printed with 10-point
5 or larger type and clearly and conspicuously
6 disclose the material terms and conditions of the
7 offer of the telecommunications carrier, as
8 described in paragraph (1) of subsection (c);

9 (D) the letter shall contain a toll-free
10 telephone number the subscriber can call to cancel
11 the product or service;

12 (E) the telecommunications carrier shall
13 retain, electronically or otherwise, proof of
14 written notification for a minimum of 24 months; and

15 (F) Written notification can be provided via
16 electronic mail if consumers are given the
17 disclosures required by Section 101(c) of the
18 Electronic Signatures In Global And National
19 Commerce Act.

20 (e) Unauthorized charges.

21 (1) Responsibilities of the billing
22 telecommunications carrier for unauthorized charges. If
23 a subscriber's telephone bill is charged for any product
24 or service without proper subscriber authorization and
25 verification or notification of authorization in
26 compliance with this Section, the telecommunications
27 carrier that billed the subscriber, on its knowledge or
28 notification of any unauthorized charge, shall promptly,
29 but not later than 45 days after the date of the
30 knowledge or notification of an unauthorized charge:

31 (A) notify the product or service provider to
32 immediately cease charging the subscriber for the
33 unauthorized product or service;

34 (B) remove the unauthorized charge from the

1 subscriber's bill; and

2 (C) refund or credit to the subscriber all
3 money that the subscriber has paid for any
4 unauthorized charge.

5 (f) The Commission shall promulgate any rules necessary
6 to ensure that subscribers are not billed on the telephone
7 bill for products or services in a manner not in compliance
8 with this Section. The rules promulgated under this Section
9 shall comport with the rules, if any, promulgated by the
10 Attorney General pursuant to the Consumer Fraud and Deceptive
11 Business Practices Act and with any rules promulgated by the
12 Federal Communications Commission or Federal Trade
13 Commission.

14 (g) Complaints may be filed with the Commission under
15 this Section by a subscriber who has been billed on the
16 telephone bill for products or services not in compliance
17 with this Section or by the Commission on its own motion.
18 Upon filing of the complaint, the parties may mutually agree
19 to submit the complaint to the Commission's established
20 mediation process. Remedies in the mediation process may
21 include, but shall not be limited to, the remedies set forth
22 in paragraphs (1) through (4) of this subsection. In its
23 discretion, the Commission may deny the availability of the
24 mediation process and submit the complaint to hearings. If
25 the complaint is not submitted to mediation or if no
26 agreement is reached during the mediation process, hearings
27 shall be held on the complaint pursuant to Article 10 of this
28 Act. If after notice and hearing, the Commission finds that
29 a telecommunications carrier has violated this Section or a
30 rule promulgated under this Section, the Commission may in
31 its discretion order any one or more of the following:

32 (1) Require the violating telecommunications
33 carrier to pay a fine of up to \$1,000 into the Public
34 Utility Fund for each repeated and intentional violation

1 of this Section.

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

5 (3) Issue a cease and desist order.

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

10 (220 ILCS 5/13-1200 new)

11 Sec. 13-1200. Repealer. This Article is repealed July
12 1, 2005.

13 (220 ILCS 5/13-803 rep.)

14 Section 25. The Public Utilities Act is amended by
15 repealing Section 13-803.

16 Section 30. The Consumer Fraud and Deceptive Business
17 Practices Act is amended by changing Section 2DD as
18 follows:

19 (815 ILCS 505/2DD)

20 Sec. 2DD. Telecommunication service provider selection.
21 A telecommunication carrier shall not submit or execute a
22 change in a subscriber's selection of a provider of local
23 exchange telecommunications service or interexchange
24 telecommunications service or offer or provide a product or
25 service to be billed on the telephone bill as provided in
26 Sections 13-902 and 13-903 any-additional-telecommunications
27 service-as-defined-in-Section-13-902 of the Public Utilities
28 Act except in accordance with (i) the verification procedures
29 adopted by the Federal Communications Commission under the
30 Communications Act of 1996, including subpart K of 47 CFR 64,

1 as those procedures are from time to time amended, and (ii)
2 Sections 13-902 and 13-903 ~~Section--13-902~~ of the Public
3 Utilities Act and any rules adopted by the Illinois Commerce
4 Commission under the authority of that Section as those rules
5 are from time to time amended. A telecommunications carrier
6 that violates this Section commits an unlawful practice
7 within the meaning of this Act.

8 (Source: P.A. 89-497, eff. 6-27-96; 90-610, eff. 7-1-98.)

9 Section 99. Effective date. This Act takes effect June
10 30, 2001."