

1 AN ACT concerning public utilities.

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

4 Section 5. The Public Utilities Act is amended by
5 changing Sections 4-202, 4-203, and 5-202 as follows:

6 (220 ILCS 5/4-202) (from Ch. 111 2/3, par. 4-202)

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

26 The Commission may express its opinion in a resolution
27 based upon whatever facts and evidence have come to its
28 attention and may issue the resolution ex parte and without
29 holding any administrative hearing before bringing suit.
30 Except in cases involving an imminent threat to the public
31 health or public safety, no such resolution shall be adopted

1 until 48 hours after the public utility has been given notice
2 of (i) the substance of the alleged violation, including a
3 citation to the law or order, decision, rule, regulation, or
4 direction of the Commission alleged to have been violated and
5 (ii) the time and date of the meeting at which such
6 resolution will first be before the Commission for
7 consideration.

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

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

29 (220 ILCS 5/4-203) (from Ch. 111 2/3, par. 4-203)

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

31 (a) All civil penalties established under this Act shall
32 be assessed and collected by the Commission. Except for the
33 penalties provided under Section 2-202, civil penalties may

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

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

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

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

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

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

33 (220 ILCS 5/5-202) (from Ch. 111 2/3, par. 5-202)

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

18 Every violation of the provisions of this Act or of any
19 order, decision, rule, regulation, direction, or requirement
20 of the Commission, or any part or portion thereof, by any
21 corporation or person, is a separate and distinct offense,
22 and in case of a continuing violation, each day's continuance
23 thereof shall be a separate and distinct offense; provided,
24 however, that the cumulative penalty for any continuing
25 violation shall not exceed \$500,000.

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

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

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

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

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