

1 AN ACT relating to telecommunications.

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

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
23 sell, or markets electric power, generation, distribution,
24 transmission, or services (including metering and billing) in
25 connection therewith. Electric service providers shall
26 include any electric utility and any alternative retail
27 electric supplier as defined in Section 16-102 of the Public
28 Utilities Act.

29 (b-5) As used in this Section: "Telecommunications
30 services" means services sold by a telecommunications
31 carrier, as provided for in Section 13-203 of the Public

1 Utilities Act. "Telecommunications carrier" means anyone who
2 sells, contracts to sell, or markets telecommunications
3 services, whether noncompetitive or competitive, including
4 access services, interconnection services, or any services in
5 connection therewith. Telecommunications carriers include
6 any carrier as defined in Section 13-202 of the Public
7 Utilities Act.

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

21 (d) In addition to the investigative and enforcement
22 powers available to the Attorney General, including without
23 limitation those under the Consumer Fraud and Deceptive
24 Business Practices Act and the Illinois Antitrust Act, the
25 Attorney General shall be a party as a matter of right to all
26 proceedings, investigations, and related matters involving
27 the provision of electric services and to those proceedings,
28 investigations, and related matters involving the provision
29 of telecommunications services before the Illinois Commerce
30 Commission and shall, upon request, have access to and the
31 use of all files, records, data, and documents in the
32 possession or control of the Commission, which material the
33 Attorney General's office shall maintain as confidential, to
34 be used for law enforcement purposes only, which material may

1 be shared with other law enforcement officials. Nothing in
2 this Section is intended to take away or limit any of the
3 powers the Attorney General has pursuant to common law or
4 other statutory law.

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

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

8 (30 ILCS 105/5.545 new)

9 Sec. 5.545. The Digital Divide Elimination Fund.

10 (30 ILCS 105/5.546 new)

11 Sec. 5.546. The Digital Divide Elimination
12 Infrastructure Fund.

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

16 (30 ILCS 780/5-20 new)

17 Sec. 5-20. Digital Divide Elimination Fund. The Digital
18 Divide Elimination Fund is created as a special fund in the
19 State treasury. All moneys in the Fund shall be used, subject
20 to appropriation by the General Assembly, by the Department
21 for grants made under Section 5-30 of this Act.

22 (30 ILCS 780/5-30)

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

24 (a) Subject to appropriation, the Department shall
25 administer the Community Technology Center Grant Program
26 under which the Department shall make grants in accordance
27 with this Article for planning, establishment,
28 administration, and expansion of Community Technology Centers

1 and for assisting public hospitals, libraries, and park
 2 districts in eliminating the digital divide. The purposes of
 3 the grants shall include, but not be limited to, volunteer
 4 recruitment and management, training and instruction,
 5 infrastructure, and related goods and services for Community
 6 Technology Centers and public hospitals, libraries, and park
 7 districts. The total amount of grants under this Section in
 8 fiscal year 2001 shall not exceed \$2,000,000, except that
 9 this limit on grants shall not apply to grants funded by
 10 appropriations from the Digital Divide Elimination Fund. No
 11 Community Technology Center may receive a grant of more than
 12 \$50,000 under this Section in a particular fiscal year.

13 (b) Public hospitals, libraries, park districts, and
 14 State educational agencies, local educational agencies,
 15 institutions of higher education, and other public and
 16 private nonprofit or for-profit agencies and organizations
 17 are eligible to receive grants under this Program, provided
 18 that a local educational agency or public or private
 19 educational agency or organization must, in order to be
 20 eligible to receive grants under this Program, provide
 21 computer access and educational services using information
 22 technology to the public at one or more of its educational
 23 buildings or facilities at least 12 hours each week. A group
 24 of eligible entities is also eligible to receive a grant if
 25 the group follows the procedures for group applications in 34
 26 CFR 75.127-129 of the Education Department General
 27 Administrative Regulations.

28 To be eligible to apply for a grant, a Community
 29 Technology Center, public hospital, library, or park district
 30 must serve a community in which not less than 40% 50% of the
 31 students are eligible for a free or reduced price lunch
 32 under the national school lunch program or in which not less
 33 than 30% 40% of the students are eligible for a free lunch
 34 under the national school lunch program; however, if funding

1 is insufficient to approve all grant applications for a
2 particular fiscal year, the Department may impose a higher
3 minimum percentage threshold for that fiscal year.
4 Determinations of communities and determinations of the
5 percentage of students in a community who are eligible for a
6 free or reduced price lunch under the national school lunch
7 program shall be in accordance with rules adopted by the
8 Department.

9 Any entities that have received a Community Technology
10 Center grant under the federal Community Technology Centers
11 Program are also eligible to apply for grants under this
12 Program.

13 The Department shall provide assistance to Community
14 Technology Centers in making those determinations for
15 purposes of applying for grants.

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

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

20 (e) There is created the Digital Divide Elimination
21 Advisory Committee. The advisory committee shall consist of
22 5 members appointed one each by the Governor, the President
23 of the Senate, the Senate Minority Leader, the Speaker of the
24 House, and the House Minority Leader. The members of the
25 advisory committee shall receive no compensation for their
26 services as members of the advisory committee but may be
27 reimbursed for their actual expenses incurred in serving on
28 the advisory committee. The Digital Divide Elimination
29 Advisory Committee shall advise the Department in
30 establishing criteria and priorities for identifying
31 recipients of grants under this Act. The advisory committee
32 shall obtain advice from the technology industry regarding
33 current technological standards. The advisory committee
34 shall seek any available federal funding.

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

2 Section 20. The Public Utilities Act is amended by
3 changing Sections 1-102, 2-101, 2-202, 8-101, 9-230, 13-101,
4 13-301.1, 13-407, 13-501, 13-502, 13-509, 13-514, 13-515,
5 13-516, 13-801, and 13-902 and adding Sections 10-101.1,
6 13-202.5, 13-216, 13-217, 13-218, 13-219, 13-220, 13-301.2,
7 13-301.3, 13-303, 13-303.5, 13-304, 13-305, 13-502.5, 13-517,
8 13-518, 13-712, 13-713, 13-903, and 13-1200 as follows:

9 (220 ILCS 5/1-102) (from Ch. 111 2/3, par. 1-102)

10 Sec. 1-102. Findings and Intent. The General Assembly
11 finds that the health, welfare and prosperity of all Illinois
12 citizens require the provision of adequate, efficient,
13 reliable, environmentally safe and least-cost public utility
14 services at prices which accurately reflect the long-term
15 cost of such services and which are equitable to all
16 citizens. It is therefore declared to be the policy of the
17 State that public utilities shall continue to be regulated
18 effectively and comprehensively. It is further declared that
19 the goals and objectives of such regulation shall be to
20 ensure

21 (a) Efficiency: the provision of reliable energy
22 services at the least possible cost to the citizens of
23 the State; in such manner that:

24 (i) physical, human and financial resources
25 are allocated efficiently;

26 (ii) all supply and demand options are
27 considered and evaluated using comparable terms and
28 methods in order to determine how utilities shall
29 meet their customers' demands for public utility
30 services at the least cost;

31 (iii) utilities are allowed a sufficient
32 return on investment so as to enable them to attract

1 capital in financial markets at competitive rates;

2 (iv) tariff rates for the sale of various
3 public utility services are authorized such that
4 they accurately reflect the cost of delivering those
5 services and allow utilities to recover the total
6 costs prudently and reasonably incurred;

7 (v) variation in costs by customer class and
8 time of use is taken into consideration in
9 authorizing rates for each class.

10 (b) Environmental Quality: the protection of the
11 environment from the adverse external costs of public
12 utility services so that

13 (i) environmental costs of proposed actions
14 having a significant impact on the environment and
15 the environmental impact of the alternatives are
16 identified, documented and considered in the
17 regulatory process;

18 (ii) the prudently and reasonably incurred
19 costs of environmental controls are recovered.

20 (c) Reliability: the ability of utilities to
21 provide consumers with public utility services under
22 varying demand conditions in such manner that suppliers
23 of public utility services are able to provide service at
24 varying levels of economic reliability giving appropriate
25 consideration to the costs likely to be incurred as a
26 result of service interruptions, and to the costs of
27 increasing or maintaining current levels of reliability
28 consistent with commitments to consumers.

29 (d) Equity: the fair treatment of consumers and
30 investors in order that

31 (i) the public health, safety and welfare
32 shall be protected;

33 (ii) the application of rates is based on
34 public understandability and acceptance of the

- 1 reasonableness of the rate structure and level;
- 2 (iii) the cost of supplying public utility
- 3 services is allocated to those who cause the costs
- 4 to be incurred;
- 5 (iv) if factors other than cost of service are
- 6 considered in regulatory decisions, the rationale
- 7 for these actions is set forth;
- 8 (v) regulation allows for orderly transition
- 9 periods to accommodate changes in public utility
- 10 service markets;
- 11 (vi) regulation does not result in undue or
- 12 sustained adverse impact on utility earnings;
- 13 (vii) the impacts of regulatory actions on all
- 14 sectors of the State are carefully weighed;
- 15 (viii) the rates for utility services are
- 16 affordable and therefore preserve the availability
- 17 of such services to all citizens.

18 It is further declared to be the policy of the State that

19 this Act shall not apply in relation to motor carriers and

20 rail carriers as defined in the Illinois Commercial

21 Transportation Law, or to the Commission in the regulation of

22 such carriers.

23 Nothing in this Act shall be construed to limit,

24 restrict, or mitigate in any way the power and authority of

25 the State's Attorneys or the Attorney General under the

26 Consumer Fraud and Deceptive Business Practices Act.

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

28 (220 ILCS 5/2-101) (from Ch. 111 2/3, par. 2-101)

29 Sec. 2-101. Commerce Commission created. There is

30 created an Illinois Commerce Commission consisting of 5

31 members not more than 3 of whom shall be members of the same

32 political party at the time of appointment. The Governor

33 shall appoint the members of such Commission by and with the

1 advice and consent of the Senate. In case of a vacancy in
2 such office during the recess of the Senate the Governor
3 shall make a temporary appointment until the next meeting of
4 the Senate, when he shall nominate some person to fill such
5 office; and any person so nominated who is confirmed by the
6 Senate, shall hold his office during the remainder of the
7 term and until his successor shall be appointed and
8 qualified. Each member of the Commission shall hold office
9 for a term of 5 years from the third Monday in January of the
10 year in which his predecessor's term expires.

11 Notwithstanding any provision of this Section to the
12 contrary, the term of office of each member of the Commission
13 is terminated on the effective date of this amendatory Act of
14 1995, but the incumbent members shall continue to exercise
15 all of the powers and be subject to all of the duties of
16 members of the Commission until their respective successors
17 are appointed and qualified. Of the members initially
18 appointed under the provisions of this amendatory Act of
19 1995, one member shall be appointed for a term of office
20 which shall expire on the third Monday of January, 1997; 2
21 members shall be appointed for terms of office which shall
22 expire on the third Monday of January, 1998; one member shall
23 be appointed for a term of office which shall expire on the
24 third Monday of January, 1999; and one member shall be
25 appointed for a term of office which shall expire on the
26 third Monday of January, 2000. Each respective successor
27 shall be appointed for a term of 5 years from the third
28 Monday of January of the year in which his predecessor's term
29 expires in accordance with the provisions of the first
30 paragraph of this Section.

31 Each member shall serve until his successor is appointed
32 and qualified, except that if the Senate refuses to consent
33 to the appointment of any member, such office shall be
34 deemed vacant, and within 2 weeks of the date the Senate

1 refuses to consent to the reappointment of any member, such
 2 member shall vacate such office. The Governor shall from time
 3 to time designate the member of the Commission who shall be
 4 its chairman. Consistent with the provisions of this Act, the
 5 Chairman shall be the chief executive officer of the
 6 Commission for the purpose of ensuring that the Commission's
 7 policies are properly executed.

8 If there is no vacancy on the Commission, 4 members of
 9 the Commission shall constitute a quorum to transact
 10 business; otherwise, a majority of the Commission shall
 11 constitute a quorum to transact business, and ~~but~~ no vacancy
 12 shall impair the right of the remaining commissioners to
 13 exercise all of the powers of the Commission. ~~and~~ Every
 14 finding, order, or decision approved by a majority of the
 15 members of the Commission shall be deemed to be the finding,
 16 order, or decision of the Commission.

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

18 (220 ILCS 5/2-202) (from Ch. 111 2/3, par. 2-202)

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

20 (a) It is declared to be the public policy of this State
 21 that in order to maintain and foster the effective regulation
 22 of public utilities under this Act in the interests of the
 23 People of the State of Illinois and the public utilities as
 24 well, the public utilities subject to regulation under this
 25 Act and which enjoy the privilege of operating as public
 26 utilities in this State, shall bear the expense of
 27 administering this Act by means of a tax on such privilege
 28 measured by the annual gross revenue of such public utilities
 29 in the manner provided in this Section. For purposes of this
 30 Section, "expense of administering this Act" includes any
 31 costs incident to studies, whether made by the Commission or
 32 under contract entered into by the Commission, concerning
 33 environmental pollution problems caused or contributed to by

1 public utilities and the means for eliminating or abating
2 those problems. Such proceeds shall be deposited in the
3 Public Utility Fund in the State treasury.

4 (b) All of the ordinary and contingent expenses of the
5 Commission incident to the administration of this Act shall
6 be paid out of the Public Utility Fund except the
7 compensation of the members of the Commission which shall be
8 paid from the General Revenue Fund. Notwithstanding other
9 provisions of this Act to the contrary, the ordinary and
10 contingent expenses of the Commission incident to the
11 administration of the Illinois Commercial Transportation Law
12 may be paid from appropriations from the Public Utility Fund
13 through the end of fiscal year 1986.

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

25 (d) Annual gross revenue returns shall be filed in
26 accordance with paragraph (1) or (2) of this subsection (d).

27 (1) Except as provided in paragraph (2) of this
28 subsection (d), on or before January 10 of each year each
29 public utility subject to the provisions of this Act
30 shall file with the Commission an estimated annual gross
31 revenue return containing an estimate of the amount of
32 its gross revenue for the calendar year commencing
33 January 1 of said year and a statement of the amount of
34 tax due for said calendar year on the basis of that

1 estimate. Public utilities may also file revised returns
2 containing updated estimates and updated amounts of tax
3 due during the calendar year. These revised returns, if
4 filed, shall form the basis for quarterly payments due
5 during the remainder of the calendar year. In addition,
6 on or before March 31 ~~February--15~~ of each year, each
7 public utility shall file an amended return showing the
8 actual amount of gross revenues shown by the company's
9 books and records as of December 31 of the previous year.
10 Forms and instructions for such estimated, revised, and
11 amended returns shall be devised and supplied by the
12 Commission.

13 (2) Beginning with returns due after January 1,
14 2002 ~~1993~~, the requirements of paragraph (1) of this
15 subsection (d) shall not apply to any public utility in
16 any calendar year for which the total tax the public
17 utility owes under this Section is less than \$10,000
18 ~~\$17,000~~. For such public utilities with respect to such
19 years, the public utility shall file with the Commission,
20 on or before March ~~January~~ 31 of the following year, an
21 annual gross revenue return for the year and a statement
22 of the amount of tax due for that year on the basis of
23 such a return. Forms and instructions for such returns
24 and corrected returns shall be devised and supplied by
25 the Commission.

26 (e) All returns submitted to the Commission by a public
27 utility as provided in this subsection (e) or subsection (d)
28 of this Section shall contain or be verified by a written
29 declaration by an appropriate officer of the public utility
30 that the return is made under the penalties of perjury. The
31 Commission may audit each such return submitted and may,
32 under the provisions of Section 5-101 of this Act, take such
33 measures as are necessary to ascertain the correctness of the
34 returns submitted. The Commission has the power to direct the

1 filing of a corrected return by any utility which has filed
2 an incorrect return and to direct the filing of a return by
3 any utility which has failed to submit a return. A
4 taxpayer's signing a fraudulent return under this Section is
5 perjury, as defined in Section 32-2 of the Criminal Code of
6 1961.

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

25 (2) Any public utility subject to paragraph (2) of
26 subsection (d) shall pay the amount of tax due under
27 subsection (c) on or before March January 31 next following
28 the end of the calendar year subject to tax. In the event
29 that an adjustment in the amount of tax due should be
30 necessary as a result of the filing of a corrected return
31 under subsection (e), the amount of any deficiency shall be
32 paid by the public utility at the time the corrected return
33 is filed. Any excess tax payment by the public utility shall
34 be returned to it after the filing of a claim for credit, in

1 the form of a credit memorandum in the amount of the excess.
2 However, if such deficiency or excess is less than \$1, the
3 public utility need not pay the deficiency and may not claim
4 a credit.

5 (g) Each installment or required payment of the tax
6 imposed by subsection (c) becomes delinquent at midnight of
7 the date that it is due. Failure to make a payment as
8 required by this Section shall result in the imposition of a
9 late payment penalty, an underestimation penalty, or both, as
10 provided by this subsection. The late payment penalty shall
11 be the greater of:

12 (1) \$25 for each month or portion of a month that
13 the installment or required payment is unpaid or

14 (2) an amount equal to the difference between what
15 should have been paid on the due date, based upon the
16 most recently filed estimated, annual, or amended return
17 estimate, and what was actually paid, times 1%, for each
18 month or portion of a month that the installment or
19 required payment goes unpaid. This penalty may be
20 assessed as soon as the installment or required payment
21 becomes delinquent.

22 The underestimation penalty shall apply to those public
23 utilities subject to paragraph (1) of subsection (d) and
24 shall be calculated after the filing of the amended return.
25 It shall be imposed if the amount actually paid on any of the
26 dates specified in subsection (f) is not equal to at least
27 one-fourth of the amount actually due for the year, and shall
28 equal the greater of:

29 (1) \$25 for each month or portion of a month that
30 the amount due is unpaid or

31 (2) an amount equal to the difference between what
32 should have been paid, based on the amended return, and
33 what was actually paid as of the date specified in
34 subsection (f), times a percentage equal to 1/12 of the

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

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

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

24 (1) determine the amount of all moneys deposited in
25 the Public Utility Fund during the preceding fiscal
26 biennium plus the balance, if any, in that fund at the
27 beginning of that biennium;

28 (2) determine the sum total of the following items:
29 (A) all moneys expended or obligated against
30 appropriations made from the Public Utility Fund during
31 the preceding fiscal biennium, plus (B) the sum of the
32 credit memoranda then outstanding against the Public
33 Utility Fund, if any; and

34 (3) determine the amount, if any, by which the sum

1 determined as provided in item (1) exceeds the amount
2 determined as provided in item (2).

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

27 (j) Credit memoranda issued pursuant to subsection (f)
28 and credit memoranda issued after notification and filing
29 pursuant to subsection (i) may be applied for the 2 year
30 period from the date of issuance, against the payment of any
31 amount due during that period under the tax imposed by
32 subsection (c), or, subject to reasonable rule of the
33 Commission including requirement of notification, may be
34 assigned to any other public utility subject to regulation

1 under this Act. Any application of credit memoranda after the
2 period provided for in this Section is void.

3 (k) The chairman or executive director may make refund
4 of fees, taxes or other charges whenever he shall determine
5 that the person or public utility will not be liable for
6 payment of such fees, taxes or charges during the next 24
7 months and he determines that the issuance of a credit
8 memorandum would be unjust.

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

11 (220 ILCS 5/8-101) (from Ch. 111 2/3, par. 8-101)

12 Sec. 8-101. Duties of public utilities;
13 nondiscrimination. A Every public utility shall furnish,
14 provide, and maintain such service instrumentalities,
15 equipment, and facilities as shall promote the safety,
16 health, comfort, and convenience of its patrons, employees,
17 and public and as shall be in all respects adequate,
18 efficient, just, and reasonable.

19 All rules and regulations made by a public utility
20 affecting or pertaining to its charges or service to the
21 public shall be just and reasonable.

22 A Every public utility shall, upon reasonable notice,
23 furnish to all persons who may apply therefor and be
24 reasonably entitled thereto, suitable facilities and service,
25 without discrimination and without delay.

26 Nothing in this Section shall be construed to prevent a
27 public utility from accepting payment electronically or by
28 the use of a customer-preferred financially accredited credit
29 or debit methodology.

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

31 (220 ILCS 5/9-230) (from Ch. 111 2/3, par. 9-230)

32 Sec. 9-230. Rate of return; financial involvement with

1 nonutility or unregulated companies. In determining a
2 reasonable rate of return upon investment for any public
3 utility in any proceeding to establish rates or charges, the
4 Commission shall not include any (i) incremental risk, (ii)
5 or increased cost of capital, or (iii) after May 31, 2003,
6 revenue or expense attributed to telephone directory
7 operations, which is the direct or indirect result of the
8 public utility's affiliation with unregulated or nonutility
9 companies.

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

11 (220 ILCS 5/10-101.1 new)

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

13 (a) It is the intent of the General Assembly that
14 proceedings before the Commission shall be concluded as
15 expeditiously as is possible consistent with the right of the
16 parties to the due process of law and protection of the
17 public interest. It is further the intent of the General
18 Assembly to permit and encourage voluntary mediation and
19 voluntary binding arbitration of disputes arising under this
20 Act.

21 (b) Nothing in this Act shall prevent parties to
22 contested cases brought before the Commission from resolving
23 those cases, or other disputes arising under this Act, in
24 part or in their entirety, by agreement of all parties, by
25 compromise and settlement, or by voluntary mediation;
26 provided, however, that nothing in this Section shall limit
27 the Commission's authority to conduct such investigations and
28 enter such orders as it shall deem necessary to enforce the
29 provisions of this Act or otherwise protect the public
30 interest. Evidence of conduct or statements made by a party
31 in furtherance of voluntary mediation or in compromise
32 negotiations is not admissible as evidence should the matter
33 subsequently be heard by the Commission; provided, however

1 that evidence otherwise discoverable is not excluded or
2 deemed inadmissible merely because it is presented in the
3 course of voluntary mediation or compromise negotiations. No
4 civil penalty shall be imposed upon parties that reach an
5 agreement pursuant to the mediation procedures in this
6 Section.

7 (c) The Commission shall prescribe by rule such
8 procedures and facilities as are necessary to permit parties
9 to resolve disputes through voluntary mediation prior to the
10 filing of, or at any point during, the pendency of a
11 contested matter. Parties to disputes arising under this Act
12 are encouraged to submit disputes to the Commission for
13 voluntary mediation, which shall not be binding upon the
14 parties. Submission of a dispute to voluntary mediation shall
15 not compromise the right of any party to bring action under
16 this Act.

17 (d) In any contested case before the Commission, at the
18 Commission's or hearing examiner's direction or on motion of
19 any party, a case management conference may be held at such
20 time in the proceeding prior to evidentiary hearing as the
21 hearing examiner deems proper. Prior to the conference, when
22 directed to do so, all parties shall file a case management
23 memorandum that addresses items (1) through (9) as directed
24 by the hearing examiner. At the conference, the following
25 shall be considered:

26 (1) the identification and simplification of the
27 issues; provided, however, that the identification of
28 issues by a party shall not foreclose that party from
29 raising such other meritorious issues as that party might
30 subsequently identify;

31 (2) amendments to the pleadings;

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

34 (4) limitations on discovery including:

1 (A) the area of expertise and the number of
 2 witnesses who will likely be called; provided,
 3 however, that the identification of witnesses by a
 4 party shall not foreclose that party from producing
 5 such other witnesses as that party might
 6 subsequently identify; and

7 (B) schedules for responses to and completion
 8 of discovery; provided, however, that such responses
 9 shall under no circumstances be provided later than
 10 28 days after such discovery or requests are served,
 11 unless the hearing examiner shall order or the
 12 parties agree to some other time period for
 13 response;

14 (5) the possibility of settlement and scheduling of
 15 a settlement conference;

16 (6) the advisability of alternative dispute
 17 resolution including, but not limited to, mediation or
 18 arbitration;

19 (7) the date on which the matter should be ready
 20 for evidentiary hearing and the likely duration of the
 21 hearing;

22 (8) the advisability of holding subsequent case
 23 management conferences; and

24 (9) any other matters that may aid in the
 25 disposition of the action.

26 (e) The Commission is hereby authorized, if requested by
 27 all parties to any complaint brought under this Act, to
 28 arbitrate the complaint and to enter a binding arbitration
 29 award disposing of the complaint. The Commission shall
 30 prescribe by rule procedures for arbitration.

31 (220 ILCS 5/13-101) (from Ch. 111 2/3, par. 13-101)

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

33 Sec. 13-101. Application of Act to telecommunications

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

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

27 (220 ILCS 5/13-202.5 new)

28 Sec. 13-202.5. Incumbent local exchange carrier.
29 "Incumbent local exchange carrier" means, with respect to an
30 area, the telecommunications carrier that provided
31 noncompetitive local exchange telecommunications service in
32 that area on February 8, 1996, and on that date was deemed a
33 member of the exchange carrier association pursuant to 47

1 C.F.R. 69.601(b), and includes its successors, assigns, and
2 affiliates.

3 (220 ILCS 5/13-216 new)

4 Sec. 13-216. Network element. "Network element" means a
5 facility or equipment used in the provision of a
6 telecommunications service. The term also includes features,
7 functions, and capabilities that are provided by means of the
8 facility or equipment, including, but not limited to,
9 subscriber numbers, databases, signaling systems, and
10 information sufficient for billing and collection or used in
11 the transmission, routing, or other provision of a
12 telecommunications service.

13 (220 ILCS 5/13-217 new)

14 Sec. 13-217. End user. "End user" means any person,
15 corporation, partnership, firm, municipality, cooperative,
16 organization, governmental agency, building owner, or other
17 entity provided with a telecommunications service for its own
18 consumption and not for resale.

19 (220 ILCS 5/13-218 new)

20 Sec. 13-218. Business end user. "Business end user"
21 means (1) an end user engaged primarily or substantially in a
22 paid commercial, professional, or institutional activity; (2)
23 an end user provided telecommunications service in a
24 commercial, professional, or institutional location, or other
25 location serving primarily or substantially as a site of an
26 activity for pay; (3) an end user whose telecommunications
27 service is listed as the principal or only number for a
28 business in any yellow pages directory; (4) an end user whose
29 telecommunications service is used to conduct promotions,
30 solicitations, or market research for which compensation or
31 reimbursement is paid or provided; provided, however, that

1 the use of telecommunications service, without compensation
2 or reimbursement, for a charitable or civic purpose shall not
3 constitute business use of a telecommunications service.

4 (220 ILCS 5/13-219 new)

5 Sec. 13-219. Residential end user. "Residential end
6 user" means an end user other than a business end user.

7 (220 ILCS 5/13-220 new)

8 Sec. 13-220. Retail telecommunications service. "Retail
9 telecommunications service" means a telecommunications
10 service sold to an end user. "Retail telecommunications
11 service" does not include a telecommunications service
12 provided by a telecommunications carrier to a
13 telecommunications carrier, including to itself, as a
14 component of, or for the provision of, telecommunications
15 service. A business retail telecommunications service is a
16 retail telecommunications service provided to a business end
17 user. A residential retail telecommunications service is a
18 retail telecommunications service provided to a residential
19 end user.

20 (220 ILCS 5/13-301.1) (from Ch. 111 2/3, par. 13-301.1)

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

22 Sec. 13-301.1. Universal Telephone Service Assistance
23 Program.

24 (a) The Commission shall by rule or regulation establish
25 a Universal Telephone Service Assistance Program for low
26 income residential customers. The program shall provide for a
27 reduction of access line charges, a reduction of connection
28 charges, or any other alternative to increase accessibility
29 to telephone service that the Commission deems advisable
30 subject to the availability of funds for the program as
31 provided in subsection (d) ~~(b)~~. The Commission shall

1 establish eligibility requirements for benefits under the
2 program.

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

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

21 (d) ~~(b)~~ The Commission shall require by rule or
22 regulation that each telecommunications carrier providing
23 local exchange telecommunications services notify its
24 customers that if the customer wishes to participate in the
25 funding of the Universal Telephone Service Assistance Program
26 he may do so by electing to contribute, on a monthly basis, a
27 fixed amount that will be included in the customer's monthly
28 bill. The customer may cease contributing at any time upon
29 providing notice to the telecommunications carrier providing
30 local exchange telecommunications services. The notice shall
31 state that any contribution made will not reduce the
32 customer's bill for telecommunications services. Failure to
33 remit the amount of increased payment will reduce the
34 contribution accordingly. The Commission shall specify the

1 monthly fixed amount or amounts that customers wishing to
2 contribute to the funding of the Universal Telephone Service
3 Assistance Program may choose from in making their
4 contributions. Every telecommunications carrier providing
5 local exchange telecommunications services shall remit the
6 amounts contributed in accordance with the terms of the
7 Universal Telephone Service Assistance Program.

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

9 (220 ILCS 5/13-301.2 new)

10 Sec. 13-301.2. Program to Foster Elimination of the
11 Digital Divide. The Commission shall require by rule that
12 each telecommunications carrier notify its customers that if
13 the customer wishes to participate in the funding of the
14 Program to Foster Elimination of the Digital Divide he or she
15 may do so by electing to contribute, on a monthly basis, a
16 fixed amount that will be included in the customer's monthly
17 bill. The customer may cease contributing at any time upon
18 providing notice to the telecommunications carrier. The
19 notice shall state that any contribution made will not reduce
20 the customer's bill for telecommunications services. Failure
21 to remit the amount of increased payment will reduce the
22 contribution accordingly. The Commission shall specify the
23 monthly fixed amount or amounts that customers wishing to
24 contribute to the funding of the Program to Foster
25 Elimination of the Digital Divide may choose from in making
26 their contributions. A telecommunications carrier shall
27 remit the amounts contributed by its customers to the
28 Department of Commerce and Community Affairs for deposit in
29 the Digital Divide Elimination Fund at the intervals
30 specified in the Commission rules.

31 (220 ILCS 5/13-301.3 new)

32 Sec. 13-301.3. Digital Divide Elimination Infrastructure

1 Program.

2 (a) The Digital Divide Elimination Infrastructure Fund
3 is created as a special fund in the State treasury. All
4 moneys in the Fund shall be used, subject to appropriation,
5 by the Commission to fund the construction of facilities
6 specified in Commission rules adopted under this Section. The
7 Commission may accept private and public funds, including
8 federal funds, for deposit into the Fund. Earnings
9 attributable to moneys in the Fund shall be deposited into
10 the Fund.

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

24 (c) The rules of the Commission shall provide for the
25 competitive selection of recipients of grant funds available
26 from the Digital Divide Elimination Infrastructure Fund
27 pursuant to the Illinois Procurement Code. Grants shall be
28 awarded to bidders chosen on the basis of the criteria
29 established in such rules.

30 (d) All entities awarded grant moneys under this Section
31 shall maintain all records required by Commission rule for
32 the period of time specified in the rules. Such records shall
33 be subject to audit by the Commission, by any auditor
34 appointed by the State, or by any State officer authorized to

1 conduct audits.

2 (220 ILCS 5/13-303 new)

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

31 The Commission shall file the action or proceeding by
32 complaint in the circuit court alleging the violation or
33 threatened violation complained of and praying for

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

16 (220 ILCS 5/13-303.5 new)

17 Sec. 13-303.5. Injunctive relief. If, after a hearing,
18 the Commission determines that a telecommunications carrier
19 has violated this Act or a Commission order or rule, any
20 telecommunications carrier adversely affected by the
21 violation may seek injunctive relief in circuit court.

22 (220 ILCS 5/13-304 new)

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

24 (a) The Commission shall assess and collect all civil
25 penalties established under this Act against
26 telecommunications carriers, corporations other than
27 telecommunications carriers, and persons acting as
28 telecommunications carriers. Except for the penalties
29 provided under Section 2-202, civil penalties may be assessed
30 only after notice and opportunity to be heard. Any such
31 civil penalty may be compromised by the Commission. In
32 determining the amount of the civil penalty to be assessed,

1 or the amount of the civil penalty to be compromised, the
2 Commission is authorized to consider any matters of record in
3 aggravation or mitigation of the penalty, including but not
4 limited to the following:

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

7 (2) the presence or absence of due diligence on the
8 part of the violator in attempting either to comply with
9 requirements of the Act, the rules, or the order of the
10 Commission, or to secure lawful relief from those
11 requirements;

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

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

20 (b) If timely judicial review of a Commission order that
21 imposes a civil penalty is taken by a telecommunications
22 carrier, a corporation other than a telecommunications
23 carrier, or a person acting as a telecommunications carrier
24 on whom or on which the civil penalty has been imposed, the
25 reviewing court shall enter a judgment on all amounts upon
26 affirmance of the Commission order. If timely judicial
27 review is not taken and the civil penalty remains unpaid for
28 60 days after service of the order, the Commission in its
29 discretion may either begin revocation proceedings or bring
30 suit to recover the penalties. Unless stayed by a reviewing
31 court, interest shall accrue from the 60th day after the date
32 of service of the Commission order to the date full payment
33 is received by the Commission.

34 (c) Actions to recover delinquent civil penalties under

1 this Section shall be brought in the name of the People of
2 the State of Illinois in the circuit court in and for the
3 county in which the cause, or some part thereof, arose, or in
4 which the entity complained of resides. The action shall be
5 commenced and prosecuted to final judgement by the
6 Commission. In any such action, all interest incurred up to
7 the time of final court judgment may be recovered in that
8 action. In all such actions, the procedure and rules of
9 evidence shall be the same as in ordinary civil actions,
10 except as otherwise herein provided. Any such action may be
11 compromised or discontinued on application of the Commission
12 upon such terms as the court shall approve and order.

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

19 (220 ILCS 5/13-305 new)

20 Sec. 13-305. Amount of civil penalty. A
21 telecommunications carrier, any corporation other than a
22 telecommunications carrier, or any person acting as a
23 telecommunications carrier that violates or fails to comply
24 with any provisions of this Act or that fails to obey,
25 observe, or comply with any order, decision, rule,
26 regulation, direction, or requirement, or any part or
27 provision thereof, of the Commission, made or issued under
28 authority of this Act, in a case in which a civil penalty is
29 not otherwise provided for in this Act, but excepting Section
30 5-202 of the Act, shall be subject to a civil penalty imposed
31 in the manner provided in Section 13-304 of no more than
32 \$30,000 or 0.00825% of the carrier's gross intrastate annual
33 telecommunications revenue, whichever is greater, for each

1 offense unless the violator has fewer than 35,000 subscriber
2 access lines, in which case the civil penalty may not exceed
3 \$2,000 for each offense.

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

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

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

30 If the party who has violated or failed to comply with
31 this Act or an order, decision, rule, regulation, direction,
32 or requirement of the Commission, or any part or provision
33 thereof, fails to seek timely review pursuant to Sections
34 10-113 and 10-201 of this Act, the party shall, upon

1 expiration of the statutory time limit, be subject to the
2 civil penalty provision of this Section.

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

8 (220 ILCS 5/13-407) (from Ch. 111 2/3, par. 13-407)

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

10 Sec. 13-407. Commission study and report. The Commission
11 shall monitor and analyze patterns of entry and exit, and
12 changes in patterns of applications for entry and exit, for
13 each relevant market for telecommunications services,
14 including emerging high speed telecommunications markets, and
15 shall include its findings together with appropriate
16 recommendations for legislative action in its annual report
17 to the General Assembly.

18 The Commission shall also monitor and analyze the status
19 of deployment of services to consumers, and any resulting
20 "digital divisions" between consumers, including any changes
21 or trends therein. The Commission shall include its findings
22 together with appropriate recommendations for legislative
23 action in its annual report to the General Assembly. In
24 preparing this analysis the Commission shall evaluate
25 information provided by telecommunications carriers that
26 pertains to the state of competition in telecommunications
27 markets including, but not limited to:

28 (1) the number and type of firms providing
29 telecommunications services, including broadband
30 telecommunications services, within the State;

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

33 (3) the extent to which customers and other

1 providers are purchasing the firms' telecommunications
2 services;

3 (4) the technologies or methods by which these
4 firms provide these services, including descriptions of
5 technologies in place and under development, and the
6 degree to which firms rely on other wholesale providers
7 to provide service to their own customers; and

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

10 The Commission shall at a minimum assess the variability
11 in this information according to geography, examining
12 variability by exchange, wirecenter, or zip code, and by
13 customer class, examining, at a minimum, the variability
14 between residential and small, medium, and large business
15 customers. The Commission shall provide an analysis of
16 market trends by collecting this information from firms
17 providing telecommunications services within the State. The
18 Commission shall also collect all information, in a format
19 determined by the Commission, that the Commission deems
20 necessary to assist in monitoring and analyzing the
21 telecommunications markets and the status of competition and
22 deployment of telecommunications services to consumers in the
23 State.

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

25 (220 ILCS 5/13-501) (from Ch. 111 2/3, par. 13-501)

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

27 Sec. 13-501. Tariff; filing.

28 (a) No telecommunications carrier shall offer or provide
29 telecommunications service unless and until a tariff is filed
30 with the Commission which describes the nature of the
31 service, applicable rates and other charges, terms and
32 conditions of service, and the exchange, exchanges or other
33 geographical area or areas in which the service shall be

1 offered or provided. The Commission may prescribe the form
2 of such tariff and any additional data or information which
3 shall be included therein.

4 (b) After a hearing, the Commission has the discretion
5 to impose an interim or permanent tariff on a
6 telecommunications carrier as part of the order in the case.
7 When a tariff is imposed as part of the order in a case, the
8 tariff shall remain in full force and effect until a
9 compliance tariff, or superseding tariff, is filed by the
10 telecommunications carrier and, after notice to the parties
11 in the case and after a compliance hearing is held, is found
12 by the Commission to be in compliance with the Commission's
13 order.

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

15 (220 ILCS 5/13-502) (from Ch. 111 2/3, par. 13-502)

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

17 Sec. 13-502. Classification of services.

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

28 (b) A service shall be classified as competitive only
29 if, and only to the extent that, for some identifiable class
30 or group of customers in an exchange, group of exchanges, or
31 some other clearly defined geographical area, such service,
32 or its functional equivalent, or a substitute service, is
33 reasonably available from more than one provider, whether or

1 not any such provider is a telecommunications carrier subject
2 to regulation under this Act. All telecommunications services
3 not properly classified as competitive shall be classified as
4 noncompetitive. The Commission shall have the power to
5 investigate the propriety of any classification of a
6 telecommunications service on its own motion and shall
7 investigate upon complaint. In any hearing or investigation,
8 the burden of proof as to the proper classification of any
9 service shall rest upon the telecommunications carrier
10 providing the service. After notice and hearing, the
11 Commission shall order the proper classification of any
12 service in whole or in part. The Commission shall make its
13 determination and issue its final order no later than 180
14 days from the date such hearing or investigation is
15 initiated. If the Commission enters into a hearing upon
16 complaint and if the Commission fails to issue an order
17 within that period, the complaint shall be deemed granted
18 unless the Commission, the complainant, and the
19 telecommunications carrier providing the service agree to
20 extend the time period.

21 (c) In determining whether a service should be
22 reclassified as competitive, the Commission shall, at a
23 minimum, consider the following factors:

24 (1) the number, size, and geographic distribution
25 of other providers of the service;

26 (2) the availability of functionally equivalent
27 services in the relevant geographic area and the ability
28 of telecommunications carriers or other persons to make
29 the same, equivalent, or substitutable service readily
30 available in the relevant market at comparable rates,
31 terms, and conditions;

32 (3) the existence of economic, technological, or
33 any other barriers to entry into, or exit from, the
34 relevant market;

1 (4) the extent to which other telecommunications
2 companies must rely upon the service of another
3 telecommunications carrier to provide telecommunications
4 service; and

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

8 (d) No tariff classifying a new telecommunications
9 service as competitive or reclassifying a previously
10 noncompetitive telecommunications service as competitive,
11 which is filed by a telecommunications carrier which also
12 offers or provides noncompetitive telecommunications service,
13 shall be effective unless and until such telecommunications
14 carrier offering or providing, or seeking to offer or
15 provide, such proposed competitive service prepares and files
16 a study of the long-run service incremental cost underlying
17 such service and demonstrates that the tariffed rates and
18 charges for the service and any relevant group of services
19 that includes the proposed competitive service and for which
20 resources are used in common solely by that group of services
21 are not less than the long-run service incremental cost of
22 providing the service and each relevant group of services.
23 Such study shall be given proprietary treatment by the
24 Commission at the request of such carrier if any other
25 provider of the competitive service, its functional
26 equivalent, or a substitute service in the geographical area
27 described by the proposed tariff has not filed, or has not
28 been required to file, such a study.

29 (e) ~~(d)~~ In the event any telecommunications service has
30 been classified and filed as competitive by the
31 telecommunications carrier, and has been offered or provided
32 on such basis, and the Commission subsequently determines
33 after investigation that such classification improperly
34 included services which were in fact noncompetitive, the

1 Commission shall have the power to determine and order
2 refunds to customers for any overcharges which may have
3 resulted from the improper classification, or to order such
4 other remedies provided to it under this Act, or to seek an
5 appropriate remedy or relief in a court of competent
6 jurisdiction.

7 (f) ~~(e)~~ If no hearing or investigation regarding the
8 propriety of a competitive classification of a
9 telecommunications service is initiated within 180 days after
10 a telecommunications carrier files a tariff listing such
11 telecommunications service as competitive, no refunds to
12 customers for any overcharges which may result from an
13 improper classification shall be ordered for the period from
14 the time the telecommunications carrier filed such tariff
15 listing the service as competitive up to the time an
16 investigation of the service classification is initiated by
17 the Commission's own motion or the filing of a complaint.
18 Where a hearing or an investigation regarding the propriety
19 of a telecommunications service classification as competitive
20 is initiated after 180 days from the filing of the tariff,
21 the period subject to refund for improper classification
22 shall begin on the date such investigation or hearing is
23 initiated by the filing of a Commission motion or a
24 complaint.

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

26 (220 ILCS 5/13-502.5 new)

27 Sec. 13-502.5. Services alleged to be improperly
28 classified.

29 (a) Any action or proceeding pending before the
30 Commission upon the effective date of this amendatory Act of
31 the 92nd General Assembly in which it is alleged that a
32 telecommunications carrier has improperly classified services
33 as competitive, other than a case pertaining to Section

1 13-506.1, shall be abated and shall not be maintained or
2 continued.

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

21 (c) All retail vertical services, as defined herein,
22 that are provided by a telecommunications carrier subject, as
23 of May 1, 2001, to alternative regulation under an
24 alternative regulation plan pursuant to Section 13-506.1 of
25 this Act shall be classified as competitive as of June 1,
26 2003 without further Commission review. Retail vertical
27 services shall include, for purposes of this Section,
28 services available on a subscriber's telephone line that the
29 subscriber pays for on a periodic or per use basis, but shall
30 not include caller identification and call waiting.

31 (d) Any action or proceeding before the Commission upon
32 the effective date of this amendatory Act of the 92nd General
33 Assembly, in which it is alleged that a telecommunications
34 carrier has improperly classified services as competitive,

1 other than a case pertaining to Section 13-506.1, shall be
2 abated and the services the classification of which is at
3 issue shall be deemed either competitive or noncompetitive as
4 set forth in this Section. Any telecommunications carrier
5 subject to an action or proceeding in which it is alleged
6 that the telecommunications carrier has improperly classified
7 services as competitive shall be deemed liable to refund, and
8 shall refund, the sum of \$90,000,000 to that class or those
9 classes of its customers that were alleged to have paid rates
10 in excess of noncompetitive rates as the result of the
11 alleged improper classification. The telecommunications
12 carrier shall make the refund no later than 120 days after
13 the effective date of this amendatory Act of the 92nd General
14 Assembly.

15 (e) Any telecommunications carrier subject to an action
16 or proceeding in which it is alleged that the
17 telecommunications carrier has improperly classified services
18 as competitive shall also pay the sum of \$15,000,000 to the
19 Digital Divide Elimination Fund established pursuant to
20 Section 5-20 of the Eliminate the Digital Divide Law, and
21 shall further pay the sum of \$15,000,000 to the Digital
22 Divide Elimination Infrastructure Fund established pursuant
23 to Section 13-301.3 of this Act. The telecommunications
24 carrier shall make each of these payments in 3 installments
25 of \$5,000,000, payable on July 1 of 2002, 2003, and 2004.
26 The telecommunications carrier shall have no further
27 accounting for these payments, which shall be used for the
28 purposes established in the Eliminate the Digital Divide Law.

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

31 (220 ILCS 5/13-509) (from Ch. 111 2/3, par. 13-509)

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

33 Sec. 13-509. Agreements for provisions of competitive

1 telecommunications services differing from tariffs. A
2 telecommunications carrier may negotiate with customers or
3 prospective customers to provide competitive
4 telecommunications service, and in so doing, may offer or
5 agree to provide such service on such terms and for such
6 rates or charges as are reasonable, without regard to any
7 tariffs it may have filed with the Commission with respect to
8 such services. Within 30 ~~10~~ business days after executing
9 any such agreement, the telecommunications carrier shall file
10 any contract or memorandum of understanding for the provision
11 of telecommunications service, which shall include the rates
12 or other charges, practices, rules or regulations applicable
13 to the agreed provision of such service. Any cost support
14 required to be filed with the agreement by some other Section
15 of this Act shall be filed within 30 business ~~calendar~~ days
16 after executing any such agreement. Where the agreement
17 contains the same rates, charges, practices, rules, and
18 regulations found in a single contract or memorandum already
19 filed by the telecommunications carrier with the Commission,
20 instead of filing the contract or memorandum, the
21 telecommunications carrier may elect to file a letter
22 identifying the new agreement and specifically referencing
23 the contract or memorandum already on file with the
24 Commission which contains the same provisions. A single
25 letter may be used to file more than one new agreement. Upon
26 filing its contract or memorandum, or letter, the
27 telecommunications carrier shall thereafter provide service
28 according to the terms thereof, unless the Commission finds,
29 after notice and hearing, that the continued provision of
30 service pursuant to such contract or memorandum would
31 substantially and adversely affect the financial integrity of
32 the telecommunications carrier or would violate any other
33 provision of this Act.

34 Any contract or memorandum entered into and filed

1 pursuant to the provisions of this Section may, in the
 2 Commission's discretion, be accorded proprietary treatment.
 3 (Source: P.A. 90-185, eff. 7-23-97; 90-574, eff. 3-20-98.)

4 (220 ILCS 5/13-514)

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

6 Sec. 13-514. Prohibited Actions of Telecommunications
 7 Carriers. A telecommunications carrier shall not knowingly
 8 impede the development of competition in any
 9 telecommunications service market. The following prohibited
 10 actions are considered per se impediments to the development
 11 of competition; however, the Commission is not limited in any
 12 manner to these enumerated impediments and may consider other
 13 actions which impede competition to be prohibited:

14 (1) unreasonably refusing or delaying interconnections
 15 or collocation or providing inferior connections to another
 16 telecommunications carrier;

17 (2) unreasonably impairing the speed, quality, or
 18 efficiency of services used by another telecommunications
 19 carrier;

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

27 (4) unreasonably delaying access in connecting another
 28 telecommunications carrier to the local exchange network
 29 whose product or service requires novel or specialized access
 30 requirements;

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

33 (6) unreasonably acting or failing to act in a manner

1 that has a substantial adverse effect on the ability of
2 another telecommunications carrier to provide service to its
3 customers;

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

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

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

22 (10) unreasonably failing to offer network elements that
23 the Commission or the Federal Communications Commission has
24 determined must be offered on an unbundled basis to another
25 telecommunications carrier in a manner consistent with the
26 Commission's or Federal Communications Commission's orders or
27 rules requiring such offerings;

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

29 (12) violating an order of the Commission regarding
30 matters between telecommunications carriers.

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

32 (220 ILCS 5/13-515)

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

1 Sec. 13-515. Enforcement.

2 (a) The following expedited procedures shall be used to
3 enforce the provisions of Section 13-514 of this Act ~~except~~
4 ~~as provided in subsection (b)~~. However, the Commission, the
5 complainant, and the respondent may mutually agree to adjust
6 the procedures established in this Section. ~~If the~~
7 ~~Commission determines, pursuant to subsection (b), that the~~
8 ~~procedural provisions of this Section do not apply, the~~
9 ~~complaint shall continue pursuant to the general complaint~~
10 ~~provisions of Article X.~~

11 (b) (Blank). ~~The provisions of this Section shall not~~
12 ~~apply to an allegation of a violation of item (8) of Section~~
13 ~~13-514 by a Bell operating company, as defined in Section 3~~
14 ~~of the federal Telecommunications Act of 1996, unless and~~
15 ~~until such company or its affiliate is authorized to provide~~
16 ~~inter-LATA services under Section 271(d) of the federal~~
17 ~~Telecommunications Act of 1996; provided, however, that a~~
18 ~~complaint setting forth a separate independent basis for a~~
19 ~~violation of Section 13-514 may proceed under this Section~~
20 ~~notwithstanding that the alleged acts or omissions may also~~
21 ~~constitute a violation of item (8) of Section 13-514.~~

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

33 (d) A telecommunications carrier may file a complaint
34 with the Commission alleging a violation of Section 13-514 in

1 accordance with this subsection:

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

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

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

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

22 (5) If the answer or responsive pleading raises the
23 issue that the complaint violates subsection (i) of this
24 Section, the complainant may file a reply to such
25 allegation within 3 days after actual service of such
26 answer or responsive pleading. Within 4 days after the
27 time for filing a reply has expired, the hearing officer
28 or arbitrator shall either issue a written decision
29 dismissing the complaint as frivolous in violation of
30 subsection (i) of this Section including the reasons for
31 such disposition or shall issue an order directing that
32 the complaint shall proceed.

33 (6) A pre-hearing conference shall be held within
34 14 days after the date on which the complaint is filed.

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

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

24 (e) If the alleged violation has a substantial adverse
25 effect on the ability of the complainant to provide service
26 to customers, the complainant may include in its complaint a
27 request for an order for emergency relief. The Commission,
28 acting through its designated hearing examiner or arbitrator,
29 shall act upon such a request within 2 business days of the
30 filing of the complaint. An order for emergency relief may
31 be granted, without an evidentiary hearing, upon a verified
32 factual showing that the party seeking relief will likely
33 succeed on the merits, that the party will suffer irreparable
34 harm in its ability to serve customers if emergency relief is

1 not granted, and that the order is in the public interest.
2 An order for emergency relief shall include a finding that
3 the requirements of this subsection have been fulfilled and
4 shall specify the directives that must be fulfilled by the
5 respondent and deadlines for meeting those directives. The
6 decision of the hearing examiner or arbitrator to grant or
7 deny emergency relief shall be considered an order of the
8 Commission unless the Commission enters its own order within
9 2 calendar days of the decision of the hearing examiner or
10 arbitrator. The order for emergency relief may require the
11 responding party to act or refrain from acting so as to
12 protect the provision of competitive service offerings to
13 customers. Any action required by an emergency relief order
14 must be technically feasible and economically reasonable and
15 the respondent must be given a reasonable period of time to
16 comply with the order.

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

1 requiring payment.

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

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

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

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

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

10 (j) If, after notice and a reasonable opportunity to
 11 respond, the Commission determines that subsection (i) has
 12 been violated, the Commission shall impose appropriate
 13 sanctions upon the party or parties that have violated
 14 subsection (i) or are responsible for the violation. The
 15 sanctions shall be not more than ~~\$30,000~~ \$7,500, plus the
 16 amount of expenses accrued by the Commission for conducting
 17 the hearing. Payment of sanctions imposed under this
 18 subsection shall be made to the Common School Fund within 30
 19 days of imposition of such sanctions.

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

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

27 (220 ILCS 5/13-516)

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

29 Sec. 13-516. Enforcement remedies Penalties for violation
 30 of-a-Commission-order-relating-to prohibited actions by of
 31 telecommunications carriers.

32 (a) In addition to any other provision of this Act, all
 33 of the following remedies may be applied for violations of

1 Section 13-514:

2 (1) A Commission order directing the violating
3 telecommunications carrier to cease and desist from
4 violating the Act or a Commission order or rule.

5 (2) Notwithstanding any other provision of this
6 Act, for a second and any subsequent violation of Section
7 13-514 committed by a telecommunications carrier after
8 the effective date of this amendatory Act of the 92nd
9 General Assembly, the Commission may impose penalties of
10 up to \$30,000 or 0.00825% of the telecommunications
11 carrier's gross intrastate annual telecommunications
12 revenue, whichever is greater, per violation unless the
13 telecommunications carrier has fewer than 35,000
14 subscriber access lines, in which case the civil penalty
15 may not exceed \$2,000 per violation. The second and any
16 subsequent violation of Section 13-514 need not be of the
17 same nature or provision of the Section for a penalty to
18 be imposed ~~of a final order or emergency relief order~~
19 ~~issued pursuant to Section 13-515 of this Act. Matters~~
20 ~~resolved through voluntary mediation pursuant to Section~~
21 ~~10-101.1 shall not be considered as a violation of~~
22 ~~Section 13-514 in computing eligibility for imposition of~~
23 ~~a penalty under this subdivision (a)(2). Each day of a~~
24 ~~continuing offense shall be treated as a separate~~
25 ~~violation for purposes of levying any penalty under this~~
26 ~~Section. The period for which the penalty fine shall be~~
27 ~~levied shall commence on the day the telecommunications~~
28 ~~carrier first violated Section 13-514 or on the day of~~
29 ~~the notice provided to the telecommunications carrier~~
30 ~~pursuant to subsection (c) of Section 13-515, whichever~~
31 ~~is later, Commission order requires compliance with the~~
32 ~~order and shall continue until the telecommunications~~
33 ~~carrier party is in compliance with the Commission order.~~
34 ~~In assessing a penalty under this subdivision (a)(2), the~~

1 Commission may consider mitigating factors, including
 2 those specified in items (1) through (4) of subsection
 3 (a) of Section 13-304.

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

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

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

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

1 manner.

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

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

28 (e) Payment of damages, attorney's fees, and costs
 29 penalties imposed under subsection (a) shall be made within
 30 30 days after issuance of the Commission order imposing the
 31 penalties, damages, attorney's fees, or costs, unless
 32 otherwise directed by the Commission or a reviewing court
 33 under an appeal taken pursuant to Article X. Payment of
 34 penalties imposed under subsection (a) shall be made to the

1 Common School Fund within 30 days of issuance of the
2 Commission order imposing the penalties.

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

4 (220 ILCS 5/13-517 new)

5 Sec. 13-517. Provision of advanced telecommunications
6 services.

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

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

26 (1) is necessary:

27 (A) to avoid a significant adverse economic
28 impact on users of telecommunications services
29 generally;

30 (B) to avoid imposing a requirement that is
31 unduly economically burdensome;

32 (C) to avoid imposing a requirement that is
33 technically infeasible; or

1 (D) to avoid imposing a requirement that is
 2 otherwise impractical to implement in exchanges with
 3 low population density; and
 4 (2) is consistent with the public interest,
 5 convenience, and necessity.

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

20 (c) As used in this Section, "advanced
 21 telecommunications services" means services capable of
 22 supporting, in at least one direction, a speed in excess of
 23 200 kilobits per second (kbps) to the network demarcation
 24 point at the subscriber's premises.

25 (220 ILCS 5/13-518 new)
 26 Sec. 13-518. Optional service packages.

27 (a) It is the intent of this Section to provide
 28 unlimited local service packages at prices that will result
 29 in savings for the average consumer. Each telecommunications
 30 carrier that provides competitive and noncompetitive
 31 services, and that is subject to an alternative regulation
 32 plan pursuant to Section 13-506.1 of this Article, shall
 33 provide, in addition to such other services as it offers, the

1 following optional packages of services for a fixed monthly
 2 rate, which, along with the terms and conditions thereof, the
 3 Commission shall review, pursuant to Article IX of this Act,
 4 to determine whether such rates, terms, and conditions are
 5 fair, just, and reasonable.

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

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

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

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

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

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

28 (220 ILCS 5/13-712 new)

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

31 (a) It is the intent of the General Assembly that every
 32 telecommunications carrier meet minimum service quality
 33 standards in providing basic local exchange service on a

1 non-discriminatory basis to all classes of customers.

2 (b) Definitions:

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

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

12 (A) services that employ advanced
13 telecommunications capability as defined in Section
14 706(c)(1) of the federal Telecommunications Act of
15 1996;

16 (B) vertical services;

17 (C) company official lines; and

18 (D) records work only.

19 (3) "Link Up" refers to the Link Up Assistance
20 program defined and established at 47 C.F.R. Section
21 54.411 et seq. as amended.

22 (c) The Commission shall promulgate service quality
23 rules for basic local exchange service, which may include
24 finances, penalties, customer credits, and other enforcement
25 mechanisms. In developing such service quality rules, the
26 Commission shall consider, at a minimum, the carrier's gross
27 annual intrastate revenue; the frequency, duration, and
28 recurrence of the violation; and the relative harm caused to
29 the affected customer or other users of the network. In
30 imposing fines, the Commission shall take into account
31 compensation or credits paid by the telecommunications
32 carrier to its customers pursuant to this Section in
33 compensation for the violation found pursuant to this
34 Section. These rules shall become effective within one year

1 after the effective date of this amendatory Act of the 92nd
2 General Assembly.

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

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

23 (2) Restore basic local exchange service for a
24 customer within 24 hours of receiving notice that a
25 customer is out of service. This provision applies to
26 service disruptions that occur when a customer switches
27 existing basic local exchange service from one carrier to
28 another.

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

34 (e) The rules shall include provisions for customers to

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

11 (1) If a carrier fails to repair an out-of-service
12 condition for basic local exchange service within 24
13 hours, the carrier shall provide a credit to the
14 customer. If the service disruption is for 48 hours or
15 less, the credit must be equal to a pro-rata portion of
16 the monthly recurring charges for all local services
17 disrupted. If the service disruption is for more than 48
18 hours, but not more than 72 hours, the credit must be
19 equal to at least 33% of one month's recurring charges
20 for all local services disrupted. If the service
21 disruption is for more than 72 hours, but not more than
22 96 hours, the credit must be equal to at least 67% of one
23 month's recurring charges for all local services
24 disrupted. If the service disruption is for more than 96
25 hours, but not more than 120 hours, the credit must be
26 equal to one month's recurring charges for all local
27 services disrupted. For each day or portion thereof that
28 the service disruption continues beyond the initial
29 120-hour period, the carrier shall also provide either
30 alternative telephone service or an additional credit of
31 \$20 per day, at the customers option.

32 (2) If a carrier fails to install basic local
33 exchange service as required under subdivision (d)(1),
34 the carrier shall waive 50% of any installation charges,

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

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

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

1 credited the customer. When applicable, an
2 interconnection agreement shall govern compensation
3 between the carrier causing the violation, in whole or in
4 part, and the retail carrier providing the credit to the
5 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, including, but not limited to, local exchange and
20 exchange access. The Commission shall require the incumbent
21 local exchange carrier to provide interconnection,
22 collocation, and network elements in any manner technically
23 feasible to the fullest extent possible to implement the
24 maximum development of competitive telecommunications
25 services offerings. As used in this Section, to the extent
26 that interconnection, collocation, or network elements have
27 been deployed for or by the incumbent local exchange carrier
28 or one of its wireline local exchange affiliates in any
29 jurisdiction, it shall be presumed that such is technically
30 feasible in Illinois.

31 (b) Interconnection.

32 (1) An incumbent local exchange carrier shall
33 provide for the facilities and equipment of any
34 requesting telecommunications carrier's interconnection

1 with the incumbent local exchange carrier's network on
2 just, reasonable, and nondiscriminatory rates, terms, and
3 conditions:

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

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

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

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

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

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

1 transport facilities, and the facilities of any collocated
2 carrier, consistent with safety and network reliability
3 standards.

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

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

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

21 (3) Upon request, an incumbent local exchange
22 carrier shall combine any sequence of unbundled network
23 elements that it ordinarily combines for itself,
24 including but not limited to, unbundled network elements
25 identified in The Draft of the Proposed Ameritech
26 Illinois 271 Amendment (I2A) found in Schedule SJA-4
27 attached to Exhibit 3.1 filed by Illinois Bell Telephone
28 Company on or about March 28, 2001 with the Illinois
29 Commerce Commission under Illinois Commerce Commission
30 Docket Number 00-0700. The Commission shall determine
31 those network elements the incumbent local exchange
32 carrier ordinarily combines for itself if there is a
33 dispute between the incumbent local exchange carrier and
34 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, and exchange access telecommunications
25 services within the LATA to its end users or payphone
26 service providers without the requesting
27 telecommunications carrier's provision or use of any
28 other facilities or functionalities.

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

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

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

1 performance that is governed by agreements approved by
2 the Commission and containing timeframes for the same or
3 similar measures or for when a requesting
4 telecommunications carrier requests a longer time
5 interval.

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

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

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

6 (e) Operations support systems. The Commission shall
7 establish minimum standards with just, reasonable, and
8 nondiscriminatory rates, terms, and conditions for the
9 preordering, ordering, provisioning, maintenance and repair,
10 and billing functions of the incumbent local exchange
11 carrier's operations support systems provided to other
12 telecommunications carriers.

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

32 (g) Cost based rates. Interconnection, collocation,
33 network elements, and operations support systems shall be
34 provided by the incumbent local exchange carrier to

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

13 (h) Rural exemption. This Section does not apply to
14 certain rural telephone companies as described in 47 U.S.C.
15 251(f).

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

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

34 (k) The Commission shall determine any matters in

1 dispute between the incumbent local exchange carrier and the
2 requesting carrier pursuant to Section 13-515 of this Act.

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

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

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

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

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

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

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

34 The Commission's report shall be filed with the Joint

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

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

7 (220 ILCS 5/13-902)

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

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

11 (a) Definitions; scope.

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

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

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

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

32 (5) "Unauthorized change" means a change in a
 33 subscriber's selection of a provider of

1 telecommunications service that was made without
2 authorization verified in accordance with the
3 verification procedures specified in this Section.

4 (6) "Subscriber" means:

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

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

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

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

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

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

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

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

32 (A) authorization from the subscriber; and

33 (B) verification of that authorization in
34 accordance with the procedures prescribed in this

1 Section.

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

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

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

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

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

34 (A) The telecommunications carrier has

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

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

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

34 (7) Methods of third party verification. Automated

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

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

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

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

33 (11) Telecommunications carriers must provide
34 subscribers the option of using one of the authorization

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

5 (d) Letter of agency form and content.

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

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

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

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

1 language shall be placed near the signature line on the
2 back of the check.

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

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

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

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

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

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

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

34 (7) Letters of agency shall not suggest or require

1 that a subscriber take some action in order to retain the
2 subscriber's current telecommunications carrier.

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

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

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

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

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

33 (f) The Commission shall promulgate any rules necessary
34 to administer this Section. The rules promulgated under this

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

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

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

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

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

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

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

29 (5) Issue a cease and desist order.

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

1 addition-to-a-subscriber's-service.

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

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

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

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

30 (e)--A--company--or--telecommunications--carrier--submitting--a
31 change--in--a--subscriber's--primary--exchange--or--interexchange
32 telecommunications--carrier---as--described--in--subsection--(d)
33 shall--be--solely--responsible--for--providing--written--notice--of
34 the--change--to--the--subscriber--in--accordance--with--this--Section,

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

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

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

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

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

32 (2)--If--the--company--or--telecommunications--carrier
33 elects--to--obtain--verification--in--accordance--with--this
34 Section,--verification--shall--be--obtained--as--follows:

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

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

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

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

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

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

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

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

32 (iii) -- in -- cases -- where -- verification -- is
33 sought -- for -- the -- subscriber 's -- presubscribed
34 telecommunications -- carrier , -- that -- for -- each -- line

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (6) Issue a cease and desist order.

32 (7) For a pattern of violation of this Section or
33 for intentionally violating a cease and desist order,
34 revoke the violating telecommunications carrier's

1 ~~certificate-of-service-authority.~~

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

3 (220 ILCS 5/13-903 new)

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

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

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

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

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

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

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

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

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

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

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

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

25 (1) Independent third-party verification:

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

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

31 (ii) is not directly or indirectly
32 managed, controlled, directed, or owned wholly
33 or in part by the telecommunications carrier or
34 the carrier's marketing agent; and

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

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

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

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

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

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

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

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

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

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

34 (B) the letter shall be a separate document

1 sent for the sole purpose of describing the product
2 or service of the telecommunications carrier;

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

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

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

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

19 (e) Unauthorized charges.

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

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

33 (B) remove the unauthorized charge from the
34 subscriber's bill; and

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

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

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

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

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

4 (3) Issue a cease and desist order.

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

9 (220 ILCS 5/13-1200 new)

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

12 (220 ILCS 5/13-803 rep.)

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

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

18 (815 ILCS 505/2DD)

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

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

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

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