

1 AMENDMENT TO HOUSE BILL 2903

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2903 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by  
5 changing Sections 4-203, 5-202, 13-100, 13-209, 13-301,  
6 13-301.1, 13-302, 13-502, 13-504, 13-505, 13-505.2, 13-506.1,  
7 13-507, 13-514, 13-515, 13-704, and 13-902 and adding  
8 Sections 13-216, 13-217, 13-218, 13-219, 13-220, 13-710,  
9 13-711, 13-712, 13-713, 13-714, and 13-715 as follows:

10 (220 ILCS 5/4-203) (from Ch. 111 2/3, par. 4-203)

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

12 (a) This subsection applies to telecommunications  
13 carriers as defined in Section 13-202:

14 (1) All civil penalties established under this Act  
15 shall be assessed and collected by the Commission. Except  
16 for the penalties provided under Section 2-202, civil  
17 penalties may be assessed only after notice and  
18 opportunity to be heard. The Commission may compromise  
19 any civil penalty.

20 (2) If timely judicial review of a Commission order  
21 that imposes a civil penalty is taken by the  
22 telecommunications carrier on which the civil penalty has

1 been imposed, the reviewing court shall enter a judgment  
2 on all amounts upon affirmation of the Commission order.  
3 If timely judicial review is not taken and the civil  
4 penalty remains unpaid for 60 days after service of the  
5 order, the Commission in its discretion may either begin  
6 revocation proceedings or bring suit to recover the  
7 penalties. Unless stayed by a reviewing court, interest  
8 shall accrue from 60 days after the date of service of  
9 the Commission order.

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

28 (4) Civil penalties related to the late filing of  
29 reports, taxes, or other filings shall be paid into the  
30 State Treasury to the credit of the Public Utility Fund.  
31 Except as otherwise provided in this Act, all other fines  
32 and civil penalties shall be paid to the carrier's  
33 customers in a manner deemed appropriate by the  
34 Commission.

1       **(b)** Except as otherwise provided in this Act, actions to  
2 recover penalties under this Act shall be brought in the name  
3 of the People of the State of Illinois in the circuit court  
4 in and for the county in which the cause, or some part  
5 thereof, arose, or in which the corporation complained of, if  
6 any, has its principal place of business, or in which the  
7 person, if any, complained of, resides. The action shall be  
8 commenced and prosecuted to final judgment by the Commission.  
9 In any such action, all penalties incurred up to the time of  
10 commencing the same may be sued for and recovered. In all  
11 such actions, the procedure and rules of evidence shall be  
12 the same as in ordinary civil actions, except as otherwise  
13 herein provided. All fines and penalties recovered by the  
14 State in any such action shall be paid into the State  
15 treasury to the credit of the general fund. Any such action  
16 may be compromised or discontinued on application of the  
17 Commission upon such terms as the court shall approve and  
18 order.

19       (Source: P.A. 84-617.)

20       (220 ILCS 5/5-202) (from Ch. 111 2/3, par. 5-202)

21       Sec. 5-202. Violations; penalties.

22       **(a)** Any public utility or any corporation other than a  
23 public utility, which violates or fails to comply with any  
24 provisions of this Act, or which fails to obey, observe or  
25 comply with any order, decision, rule, regulation, direction,  
26 or requirement or any part or provision thereof, of the  
27 Commission, made or issued under authority of this Act, in a  
28 case in which a penalty is not otherwise provided for in this  
29 Act, shall be subject to a civil penalty imposed in the  
30 manner provided in Section 4-203. The penalty for all public  
31 utilities and other corporations, except for  
32 telecommunications carriers as defined in Section 13-202 of  
33 this Act, shall ef not be less than \$500 nor more than \$2,000

1 for each and every offense.

2 (b) The penalty for a telecommunications carrier shall  
3 not exceed the higher of \$1,000,000 per violation or 3% of  
4 the violator's annual gross intrastate revenue. The  
5 Commission shall consider the circumstances of the case in  
6 determining whether the fine should be assessed on a per  
7 violation basis or whether it is more appropriate to base the  
8 fine on the totality of the violations. In determining the  
9 amount of the fine, the Commission shall take into  
10 consideration the severity of the violation, the number of  
11 customers affected, the length of the violation, and the  
12 effect of the penalty on future telecommunications carrier  
13 conduct. If the telecommunications carrier willfully hinders  
14 discovery of, or information regarding, any violation under  
15 this provision, the Commission has the authority to impose  
16 additional penalties of up to double the amount of the  
17 initial penalty. Penalties accrue from the first day the  
18 carrier violated the Act or order, decision, rule,  
19 regulation, direction, or requirement of the Commission or  
20 any part or provision thereof. The provisions of this  
21 subsection shall apply only to telecommunications carriers.

22 (c) Every violation of the provisions of this Act or of  
23 any order, decision, rule, regulation, direction or  
24 requirement of the Commission, or any part or portion thereof  
25 by any corporation or person, is a separate and distinct  
26 offense and in case of a continuing violation each day's  
27 continuance thereof shall be a separate and distinct offense.

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

34 If the party who has violated or failed to comply with

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

7 For public utilities and other corporations, except for  
 8 telecommunications carriers as defined in Section 13-202 of  
 9 the Act, no penalties shall accrue under this provision until  
 10 15 days after the mailing of a notice to such party or  
 11 parties that they are in violation of or have failed to  
 12 comply with the Act or order, decision, rule, regulation,  
 13 direction, or requirement of the Commission or any part or  
 14 provision thereof.

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

16 (220 ILCS 5/13-100) (from Ch. 111 2/3, par. 13-100)

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

18 Sec. 13-100. Short title. This Article shall be known  
 19 and may be cited as the Telecommunications Consumer Universal  
 20 Telephone-Service Protection Law of 2001 1985.

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

22 (220 ILCS 5/13-209) (from Ch. 111 2/3, par. 13-209)

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

24 Sec. 13-209. Competitive telecommunications service.  
 25 "Competitive telecommunications service" means a  
 26 telecommunications service, ~~its--functional-equivalent-or-a~~  
 27 ~~substitute-service,~~ which, for some identifiable class or  
 28 group of customers in an exchange, group of exchanges, or  
 29 some other clearly defined geographical area, is classified  
 30 as a competitive service pursuant to Section 13-502 of this  
 31 Act ~~is-reasonably-available--from--more--than--one--provider,~~  
 32 ~~whether--or-not-such-provider-is-a-telecommunications-carrier~~

1 ~~subject-to-regulation-under-this-Act.~~ A telecommunications  
2 service may be competitive for the entire state, some  
3 geographical area therein, including an exchange or set of  
4 exchanges, or for a specific customer or class or group of  
5 customers, but only to the extent consistent with this  
6 definition.

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

8 (220 ILCS 5/13-216 new)

9 Sec. 13-216. Loop. "Loop" means the switched access  
10 lines that are the facilities of the local exchange carrier  
11 that connect between a local exchange carrier's central  
12 office and the customer premise.

13 (220 ILCS 5/13-217 new)

14 Sec. 13-217. Port. "Port" means the line side port that  
15 is the line card, protector, and main distribution frame.

16 (220 ILCS 5/13-218 new)

17 Sec. 13-218. Basic exchange service. "Basic exchange  
18 service" means the service purchased by the carrier's  
19 monthly recurring network access line charge along any local  
20 usage within the residential untimed calling zone or any flat  
21 rate local usage.

22 (220 ILCS 5/13-219 new)

23 Sec. 13-219. Non-basic exchange service. "Non-basic  
24 exchange service" means services other than basic exchange  
25 service.

26 (220 ILCS 5/13-220 new)

27 Sec. 13-220. Stand alone cost. "Stand alone cost" of a  
28 service or group of services means the total cost, including  
29 both variable and fixed costs, that a firm would incur to

1 produce that service or group of services separately from  
2 producing any other service.

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

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

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

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

22 (b) establish a program to monitor the level of  
23 telecommunications subscriber connection within each exchange  
24 in Illinois, and shall report the results of such monitoring  
25 and any actions it has taken or recommends be taken to  
26 maintain and increase such levels in its annual report to the  
27 General Assembly, or more often if necessary;

28 (c) order all telecommunications carriers offering or  
29 providing local exchange telecommunications service to  
30 propose low-cost or budget service tariffs and any other rate  
31 design or pricing mechanisms designed to facilitate customer  
32 access to such telecommunications service, and shall after  
33 notice and hearing, implement any such proposals which it

1 finds likely to achieve such purpose;

2 (d) investigate the necessity of and, if appropriate,  
3 establish a universal service support fund from which local  
4 exchange telecommunications carriers who pursuant to the  
5 Twenty-Seventh Interim Order of the Commission in Docket No.  
6 83-0142 or the orders of the Commission in Docket No. 97-0621  
7 and Docket No. 98-0679 received funding and whose economic  
8 costs of providing services for which universal service  
9 support may be made available exceed the affordable rate  
10 established by the Commission for such services may be  
11 eligible to receive support, less any federal universal  
12 service support received for the same or similar costs of  
13 providing the supported services; provided, however, that if  
14 a universal service support fund is established, the  
15 Commission shall require that all costs of the fund be  
16 recovered from all local exchange and interexchange  
17 telecommunications carriers certificated in Illinois on a  
18 competitively neutral and nondiscriminatory basis. In  
19 establishing any such universal service support fund, the  
20 Commission shall, in addition to the determination of costs  
21 for supported services, consider and make findings pursuant  
22 to paragraphs (1), (2), and (4) of item (e) of this Section.  
23 Proxy cost, as determined by the Commission, may be used for  
24 this purpose. In determining cost recovery for any universal  
25 service support fund, the Commission shall not permit  
26 recovery of such costs from another certificated carrier for  
27 any service purchased and used solely as an input to a  
28 service provided to such certificated carrier's retail  
29 customers; and

30 (e) investigate the necessity of and, if appropriate,  
31 establish a universal service support fund in addition to any  
32 fund that may be established pursuant to item (d) of this  
33 Section; provided, however, that if a telecommunications  
34 carrier receives universal service support pursuant to item



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

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

1 and available services.

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

7 (3) Identify the incumbent local exchange carriers'  
8 economic costs of providing the supported  
9 telecommunications services.

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

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

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

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

17          (f) Any telecommunications carrier providing local  
 18          exchange telecommunications service which offers to its local  
 19          exchange customers a choice of two or more local exchange  
 20          telecommunications service offerings shall provide, to each  
 21          any such customer ~~requesting-it,~~ once a year without charge,  
 22          a report describing which local exchange telecommunications  
 23          service offering would result in the lowest bill for such  
 24          customer's local exchange service, based on such customer's  
 25          calling pattern and usage for the previous 6 months. ~~At~~  
 26          ~~least-once-a-year,-each-such-carrier-shall-provide--a--notice~~  
 27          ~~to--each--of--its--local--exchange-telecommunications-service~~  
 28          ~~customers-describing-the-availability-of-this-report-and--the~~  
 29          ~~specific-procedures-by-which-customers-may-receive-it.~~ Such  
 30          report shall only be available to current and future  
 31          customers who have received at least 6 months of continuous  
 32          local exchange service from such carrier.

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

1 (220 ILCS 5/13-301.1) (from Ch. 111 2/3, par. 13-301.1)  
 2 Sec. 13-301.1. Universal Telephone Service Assistance  
 3 Program.

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

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

29 (c) In this Section, "lifeline service" means a retail  
 30 local service offering described by 47 C.F.R. Section  
 31 54.401(a), as amended.

32 (d) ~~(b)~~ The Commission shall require by rule or  
 33 regulation that each telecommunications carrier providing  
 34 local exchange telecommunications services notify its

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

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

20 (220 ILCS 5/13-302) (from Ch. 111 2/3, par. 13-302)

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

22 Sec. 13-302. Local measured service calling plans.

23 (a) No telecommunications carrier shall implement a  
 24 local measured service calling plan which does not include  
 25 all one of the following elements:

26 (1) the residential customer has the option of a  
 27 flat rate local calling service under which local calls  
 28 are not charged for frequency or duration; ~~or~~

29 (2) residential local calls ~~to--points-within-an~~  
 30 ~~untimed-calling-zone-approved-by-the-Commission~~ are not  
 31 charged for duration; and ~~or~~

32 (3) a low income residential Universal Service  
 33 Assistance Program, which meets criteria set forth by the

1 Commission, is available.

2 (b) In formulating the criteria for the low income  
3 residential Universal Service Assistance Program referred to  
4 in paragraph (3) of subsection (a), the Commission shall  
5 consider the desirability of various alternatives, including  
6 a reduction of the access line charge or connection charge  
7 for eligible customers.

8 (c) In this Section, "local calls" means calls within a  
9 local calling zone approved by the Commission. For a given  
10 exchange, except where impracticable, the local calling zone  
11 must include, at a minimum, the telecommunications exchanges  
12 in which community services, including medical facilities,  
13 local government offices, elementary and secondary schools,  
14 and a primary commercial center are located. The local  
15 calling zone may not exhibit any discontinuities in coverage  
16 and may not exclude any intervening exchanges. This Section  
17 does not prohibit telecommunications carriers from offering  
18 untimed service to larger geographic areas. The portion of a  
19 telecommunications service consisting of residential untimed  
20 calls or residential flat rate calls within the local calling  
21 zone shall be excluded from any imputation test. For--local  
22 measured--service--plans--implemented--prior-to-the-effective  
23 date-of-this-amendatory-Act-of-1987-which-do-not-contain--one  
24 of--the--elements--specified--in--paragraph--(1)--or--(2)--of  
25 subsection--(a)--of--this-Section, the Commission shall order  
26 the telecommunications carrier having such a plan to--include  
27 one--of--the--elements--specified--in-paragraph-(1)-or-(2)-of  
28 subsection-(a)-of-this-Section-by-January-17-1989.

29 (d) A telecommunications carrier providing local  
30 exchange telecommunications service to residential customers  
31 in a manner that does not meet the requirements of this  
32 Section shall, within 10 months after the effective date of  
33 this amendatory Act of the 92nd General Assembly, file price  
34 lists or tariff revisions necessary for the provision of

1 basic residential service that complies with the requirements  
 2 of this Section. If additional facilities are required to  
 3 implement basic residential service that complies with the  
 4 requirements of this Section, the filings may provide for a  
 5 reasonable delay in implementing the service.

6 (e) In this Section, "medical facility" means, at a  
 7 minimum, a medical doctor's office and "primary commercial  
 8 center" means a geographic area that contains, at a minimum,  
 9 a grocery store, a pharmacy, and a department store.

10 (Source: P.A. 85-1286.)

11 (220 ILCS 5/13-502) (from Ch. 111 2/3, par. 13-502)

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

13 Sec. 13-502. Classification of services.

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

25 (b) A telecommunications service that was classified as  
 26 competitive as of the effective date of this amendatory Act  
 27 of the 92nd General Assembly shall remain classified as  
 28 competitive unless reclassified pursuant to subsection (d) of  
 29 this Section.

30 (c) A telecommunications service that was classified as  
 31 noncompetitive as of the effective date of this amendatory  
 32 Act of the 92nd General Assembly shall remain classified as  
 33 noncompetitive unless reclassified pursuant to subsection (f)

1 of this Section.

2 (d) A telecommunications carrier may, by petition,  
3 request the Commission to reclassify a noncompetitive service  
4 provided by the carrier as a competitive service. The  
5 Commission shall reclassify the service as a competitive  
6 service ~~(b) -- A service -- shall -- be -- classified -- as -- competitive~~  
7 ~~only if, and only to the extent that,~~ for some identifiable  
8 class or group of customers in an exchange, group of  
9 exchanges, or some other clearly defined geographical area  
10 if, after notice and hearing, the Commission determines that:

11 (1) there is effective competition for the service  
12 in the relevant market; and

13 (2) the carrier does not have market power  
14 sufficient to control, in a manner that is adverse to the  
15 public interest, the price of the service in the  
16 geographic area.

17 (e) In determining whether the conditions in subsection  
18 (d) of this Section exist, the factors the Commission shall  
19 consider include, but are not limited to:

20 (1) the number and size of telecommunications  
21 carriers or other persons who provide the same,  
22 equivalent, or substitutable service in the relevant  
23 market;

24 (2) the extent to which the same, equivalent, or  
25 substitutable service is available in the relevant  
26 market;

27 (3) the ability of customers in the relevant market  
28 to obtain the same, equivalent, or substitutable service  
29 at comparable rates, terms, and conditions;

30 (4) the ability of a telecommunications carrier or  
31 other person to make the same, equivalent, or  
32 substitutable service readily available in the relevant  
33 market at comparable rates, terms, and conditions; and

34 (5) other indicators of market power, which may



1 include market share, growth in market share, ease of  
2 entry, and the affiliation of providers of service.

3 (f) The Commission, on its own motion or by petition,  
4 may reclassify a competitive service as a noncompetitive  
5 service if it finds that the conditions contained in  
6 subsection (d) no longer apply. The burden of proving that a  
7 service is competitive shall rest with the telecommunications  
8 carrier.

9 (g) When filing a tariff for a service that was not  
10 offered or provided as of the effective date of this  
11 amendatory Act of the 92nd General Assembly, the  
12 telecommunications carrier shall classify the service as  
13 competitive if it meets the conditions contained in  
14 subsection (d). such-service,-or-its--functional--equivalent,-  
15 or--a--substitute--service,-is-reasonably-available-from-more  
16 than-one-provider,-whether-or-not--any--such--provider--is--a  
17 telecommunications--carrier--subject-to-regulation-under-this  
18 Act. All telecommunications services not properly classified  
19 as competitive shall be classified as noncompetitive. The  
20 Commission shall have the power to investigate the propriety  
21 of any classification of a telecommunications service on its  
22 own motion and shall investigate upon complaint. In any  
23 hearing or investigation, the burden of proof as to the  
24 proper classification of any service shall rest upon the  
25 telecommunications carrier providing the service. After  
26 notice and hearing, the Commission shall order the proper  
27 classification of any service in whole or in part. The  
28 Commission--shall--make-its-determination-and-issue-its-final  
29 order-no-later-than-180-days-from-the-date--such--hearing--or  
30 investigation--is--initiated.-If-the-Commission-enters-into-a  
31 hearing-upon-complaint-and-if-the-Commission-fails--to--issue  
32 an--order--within--that-period,-the-complaint-shall-be-deemed  
33 granted-unless--the--Commission,-the--complainant,-and--the  
34 telecommunications--carrier--providing--the--service-agree-to

1 extend-the-time-period.

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

23 (d) In the event any telecommunications service has been  
24 classified and filed as competitive by the telecommunications  
25 carrier, and has been offered or provided on such basis, and  
26 the Commission subsequently determines after investigation  
27 that such classification improperly included services which  
28 were in fact noncompetitive, the Commission shall have the  
29 power to determine and order refunds to customers for any  
30 overcharges which may have resulted from the improper  
31 classification, or to order such other remedies provided to  
32 it under this Act, or to seek an appropriate remedy or relief  
33 in a court of competent jurisdiction.

34 (e) If no hearing or investigation regarding the

1 propriety---of---a---competitive---classification---of---a  
2 telecommunications-service-is-initiated-within-180-days-after  
3 a--telecommunications--carrier--files--a--tariff-listing-such  
4 telecommunications-service--as--competitive,--no--refunds--to  
5 customers--for--any--overcharges--which--may--result--from-an  
6 improper-classification-shall-be-ordered-for-the-period--from  
7 the--time--the--telecommunications--carrier-filed-such-tariff  
8 listing--the--service--as--competitive--up--to--the--time--an  
9 investigation-of-the-service-classification-is--initiated--by  
10 the--Commission's--own--motion--or-the-filing-of-a-complaint.  
11 Where-a-hearing-or-an-investigation-regarding--the--propriety  
12 of-a-telecommunications-service-classification-as-competitive  
13 is--initiated--after--180-days-from-the-filing-of-the-tariff,  
14 the-period-subject--to--refund--for--improper--classification  
15 shall--begin--on--the--date--such-investigation-or-hearing-is  
16 initiated--by--the--filing--of--a--Commission--motion--or---a  
17 complaint.

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

19 (220 ILCS 5/13-504) (from Ch. 111 2/3, par. 13-504)  
20 (Section scheduled to be repealed on July 1, 2001)  
21 Sec. 13-504. Application of ratemaking provisions of  
22 Article IX.

23 (a) Except where the context clearly renders such  
24 provisions inapplicable, the ratemaking provisions of Article  
25 IX of this Act relating to public utilities are fully and  
26 equally applicable to the rates, charges, tariffs and  
27 classifications for the offer or provision of noncompetitive  
28 telecommunications services. However, the ratemaking  
29 provisions do not apply to any proposed change in rates or  
30 charges, any proposed change in any classification or tariff  
31 resulting in a change in rates or charges, or the  
32 establishment of new services and rates therefor for a  
33 noncompetitive local exchange telecommunications service

1 offered or provided by a local exchange telecommunications  
2 carrier with no more than 35,000 subscriber access lines.  
3 Proposed changes in rates, charges, classifications, or  
4 tariffs meeting these criteria shall be permitted upon the  
5 filing of the proposed tariff and 30 days notice to the  
6 Commission and all potentially affected customers. The  
7 notice to customers must be conspicuously displayed on the  
8 customer's monthly bill and must include a statement  
9 regarding the availability of the process by which 10% of the  
10 potentially affected customers may file a complaint. The  
11 ~~proposed--changes--shall--not--be--subject--to--suspension.~~ The  
12 Commission may, upon its own motion, suspend and investigate  
13 whether any proposed change is just and reasonable, and shall  
14 investigate whether any proposed change is just and  
15 reasonable ~~only~~ if a telecommunications carrier that is a  
16 customer of the local exchange telecommunications carrier or  
17 10% of the potentially affected access line subscribers of  
18 the local exchange telecommunications carrier shall file a  
19 petition or complaint requesting an investigation of the  
20 proposed changes. When the telecommunications carrier or 10%  
21 of the potentially affected access line subscribers of a  
22 local exchange telecommunications carrier file a complaint or  
23 when the Commission suspends and investigates a proposed  
24 change on its own motion, the Commission shall, after notice  
25 and hearing, have the power and duty to establish the rates,  
26 charges, classifications, or tariffs it finds to be just and  
27 reasonable.

28 (b) ~~Subsection--(e)--of--Section--13-502--and~~ Sections  
29 13-505.1, 13-505.4, 13-505.6, and 13-507 of this Article do  
30 not apply to rates or charges or proposed changes in rates or  
31 charges for applicable competitive or interexchange services  
32 when offered or provided by a local exchange  
33 telecommunications carrier with no more than 35,000  
34 subscriber access lines. In addition, Sections 13-514,

1 13-515, and 13-516 do not apply to telecommunications  
 2 carriers with no more than 35,000 subscriber access lines.  
 3 The Commission may require telecommunications carriers with  
 4 no more than 35,000 subscriber access lines to furnish  
 5 information that the Commission deems necessary for a  
 6 determination that rates and charges for any competitive  
 7 telecommunications service are just and reasonable.

8 (c) For a local exchange telecommunications carrier with  
 9 no more than 35,000 access lines, the Commission shall  
 10 consider and adjust, as appropriate, a local exchange  
 11 telecommunications carrier's depreciation rates only in  
 12 ratemaking proceedings.

13 (d) Article VI and Sections 7-101 and 7-102 of Article  
 14 VII of this Act pertaining to public utilities, public  
 15 utility rates and services, and the regulation thereof are  
 16 not applicable to local exchange telecommunication carriers  
 17 with no more than 35,000 subscriber access lines.

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

19 (220 ILCS 5/13-505) (from Ch. 111 2/3, par. 13-505)

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

21 Sec. 13-505. Rate changes; competitive services.

22 (a) Any proposed increase ~~or--decrease~~ in rates or  
 23 charges, or proposed change in any classification or tariff  
 24 resulting in an increase ~~or--decrease~~ in rates or charges, for  
 25 a competitive telecommunications service shall be filed with  
 26 the Commission ~~permitted-upon--the--filing--of--the--proposed~~  
 27 ~~rate, charge, classification, or tariff.~~

28 (b) Except as provided in subsection (c), prior notice  
 29 of an increase shall be given ~~to--all--potentially--affected~~  
 30 customers by mail to each affected customer, and the increase  
 31 shall be effective no sooner than 30 days after the notice  
 32 has been mailed to each affected customer ~~publication--in--a~~  
 33 ~~newspaper--of--general--circulation,--or--equivalent--means--of~~

1 notice. If the notice of the increase is included in the  
2 customer's regular billing statement, the notice shall be set  
3 forth conspicuously on the same page as the total amount due.

4 (c) A proposed decrease in rates or charges, or proposed  
5 change in any classification or tariff resulting in a  
6 decrease in rates or charges, for a competitive  
7 telecommunications service shall be effective upon the filing  
8 of the proposed rate, charge, classification, or tariff.  
9 Prior notice of an increase under this Section shall be given  
10 to all potentially affected customers by mail, publication in  
11 a newspaper of mass circulation, or equivalent means.

12 (d) Subsection (c) shall also apply to a proposed  
13 increase in rates or charges, or proposed change in any  
14 classification or tariff resulting in an increase in rates or  
15 charges, for a competitive telecommunications service  
16 provided solely through the use of payphones or for a  
17 competitive telecommunications service that the customer  
18 activates and pays for on a per use basis.

19 (e) (b) If a hearing is held pursuant to Section 9-250  
20 regarding the reasonableness of an increase in the rates or  
21 charges of a competitive local exchange service, then the  
22 telecommunications carrier providing the service shall have  
23 the burden of proof to establish the justness and  
24 reasonableness of the proposed rate or charge.

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

26 (220 ILCS 5/13-505.2) (from Ch. 111 2/3, par. 13-505.2)

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

28 ~~Sec. 13-505.2. Nondiscrimination in--the--provision--of~~  
29 ~~noncompetitive-services.~~

30 (a) A telecommunications carrier that offers both  
31 noncompetitive and competitive services shall offer the  
32 noncompetitive services under the same rates, terms, and  
33 conditions without unreasonable discrimination to all

1 persons, including all telecommunications carriers and  
 2 competitors. A telecommunications carrier that offers a  
 3 noncompetitive service together with any optional feature or  
 4 functionality shall offer the noncompetitive service together  
 5 with each optional feature or functionality under the same  
 6 rates, terms, and conditions without unreasonable  
 7 discrimination to all persons, including all  
 8 telecommunications carriers and competitors.

9 (b) A telecommunications carrier may not:

10 (1) deny service to a customer or group of  
 11 customers nor establish any differences as to prices,  
 12 terms, conditions, services, products, facilities, or in  
 13 any other respect, whereby the denial or differences are  
 14 based upon race, color, sex, nationality, religion,  
 15 marital status, income level or source of income; or

16 (2) deny service to a customer or group of  
 17 customers based on locality nor establish any  
 18 unreasonable difference as to prices, terms, conditions,  
 19 services, products, or facilities as between localities.

20 (c) Nothing in this Section shall be construed to  
 21 require a carrier to offer service in a locality where it  
 22 does not have the technical capacity to offer service or  
 23 where it is not authorized to offer service.

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

25 (220 ILCS 5/13-506.1) (from Ch. 111 2/3, par. 13-506.1)

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

27 Sec. 13-506.1. Alternative forms of regulation for  
 28 noncompetitive services.

29 (a) Notwithstanding any of the ratemaking provisions of  
 30 this Article or Article IX that are deemed to require rate of  
 31 return regulation, the Commission may implement alternative  
 32 forms of regulation in order to establish just and reasonable  
 33 rates for noncompetitive telecommunications services pursuant

1 to Section 9-244 of the Act. The Commission may not approve  
 2 an alternative form of regulation for a telecommunications  
 3 carrier that is in violation of this Act, of any Commission  
 4 orders or rules, or of any applicable Commission standards  
 5 for service quality, unless the alternative form of  
 6 regulation is specifically designed to remedy the violation.  
 7 including, but not limited to, price regulation, earnings  
 8 sharing, rate moratoria, or a network modernization plan.  
 9 The Commission is authorized to adopt different forms of  
 10 regulation to fit the particular characteristics of different  
 11 telecommunications carriers and their service areas.

12 In addition to the public policy goals declared in  
 13 Section 13-103, the Commission shall consider, in determining  
 14 the appropriateness of any alternative form of regulation,  
 15 whether it will:

- 16 (1) reduce regulatory delay and costs over time;
- 17 (2) encourage innovation in services;
- 18 (3) promote efficiency;
- 19 (4) facilitate the broad dissemination of technical  
 20 improvements to all classes of ratepayers;
- 21 (5) enhance economic development of the State; and
- 22 (6) provide for fair, just, and reasonable rates.

23 (b) A telecommunications carrier providing  
 24 noncompetitive telecommunications services may petition the  
 25 Commission to regulate the rates or charges of its  
 26 noncompetitive services under an alternative form of  
 27 regulation. The telecommunications carrier shall submit with  
 28 its petition its plan for an alternative form of regulation.  
 29 The Commission shall review and may modify or reject the  
 30 carrier's proposed plan. The Commission also may initiate  
 31 consideration of alternative forms of regulation for a  
 32 telecommunications carrier on its own motion. The Commission  
 33 may approve the plan or modified plan and authorize its  
 34 implementation only if it finds, after notice and hearing,



1 that-the-plan-or-modified-plan-at-a-minimum:

2 (1)--is-in-the-public-interest;

3 (2)--will-produce-fair,-just,-and--reasonable--rates  
4 for-telecommunications-services;

5 (3)--responds--to--changes--in--technology--and--the  
6 structure-of-the-telecommunications-industry-that-are,-in  
7 fact,-occurring;

8 (4)--constitutes---a---more---appropriate---form--of  
9 regulation---based---on---the---Commission's---overall  
10 consideration--of--the--policy-goals-set-forth-in-Section  
11 13-103-and-this-Section;

12 (5)--specifically--identifies--how--ratepayers--will  
13 benefit-from-any-efficiency-gains,-cost--savings--arising  
14 out---of--the--regulatory--change,-and--improvements--in  
15 productivity-due-to-technological-change;

16 (6)--will-maintain-the-quality-and--availability--of  
17 telecommunications-services;-and

18 (7)--will--not--unduly--or-unreasonably-prejudice-or  
19 disadvantage-any--particular--customer--class,-including  
20 telecommunications-carriers.

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

1 alternative regulation plan that results in rate reductions  
2 provided all the requirements of Section 9-244 subsection-(b)  
3 are satisfied by the plan.

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

9 (d) (e) Upon petition by the telecommunications carrier  
10 or any other person or upon its own motion, the Commission  
11 may rescind its approval of an alternative form of regulation  
12 if, after notice and hearing, it finds that the conditions  
13 set forth in subsection-(b)-of--this Section 9-244 can no  
14 longer be satisfied or that the telecommunications carrier is  
15 in violation of this Act, of any Commission orders or rules,  
16 or of any applicable Commission standards for service  
17 quality. In determining whether to terminate the alternative  
18 regulation plan, the Commission shall consider the severity  
19 of the violation, the intent of the telecommunications  
20 carrier, and the relationship of the violation to the  
21 alternative regulation plan. Any person may file a complaint  
22 alleging that the rates charged by a telecommunications  
23 carrier under an alternative form of regulation are unfair,  
24 unjust, unreasonable, unduly discriminatory, or are otherwise  
25 not consistent with the requirements of this Article;  
26 provided, that the complainant shall bear the burden of  
27 proving the allegations in the complaint.

28 (e) (f) Nothing in this Section shall be construed to  
29 authorize the Commission to render Sections 9-241, 9-250, and  
30 13-505.2 inapplicable to noncompetitive services.

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

32 (220 ILCS 5/13-507) (from Ch. 111 2/3, par. 13-507)

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

1           Sec. 13-507. In any proceeding permitting, approving,  
2   investigating, or establishing rates, charges,  
3   classifications, or tariffs for telecommunications services  
4   offered or provided by a telecommunications carrier that  
5   offers or provides both noncompetitive and competitive  
6   services, the Commission shall not allow any subsidy of  
7   competitive services or nonregulated activities by  
8   noncompetitive services. In the event that facilities are  
9   utilized or expenses are incurred for the provision of both  
10  competitive and noncompetitive services, the Commission shall  
11  apportion the facilities and expenses between noncompetitive  
12  services in the aggregate and competitive services in the  
13  aggregate and shall allow or establish rates or charges for  
14  the noncompetitive services which reflect only that portion  
15  of the facilities or expenses that it finds to be properly  
16  and reasonably apportioned to noncompetitive services. The  
17  costs of the loop and port facilities shall be allocated  
18  between the basic exchange services and non-basic exchange  
19  services in proportion to the stand-alone cost of the loop  
20  and port for basic exchange service and the stand alone cost  
21  of the loop and port for the group of non-basic exchange  
22  services that use the loop and port facilities. An  
23  apportionment of facilities or expenses between competitive  
24  and noncompetitive services, together with any corresponding  
25  rate changes, shall be made in general rate proceedings and  
26  in other proceedings, including service classification  
27  proceedings, that are necessary to ensure against any subsidy  
28  of competitive services by noncompetitive services. The  
29  Commission shall have the power to take or require such  
30  action as is necessary to ensure that rates or charges for  
31  noncompetitive services reflect only the value of facilities,  
32  or portion thereof, used and useful, and the expenses or  
33  portion thereof reasonably and prudently incurred, for the  
34  provision of the noncompetitive services. The Commission may,

1 in such event, also establish, by rule, any additional  
2 procedures, rules, regulations, or mechanisms necessary to  
3 identify and properly account for the value or amount of such  
4 facilities or expenses.

5 The Commission may establish, by rule, appropriate  
6 methods for ensuring against cross-subsidization between  
7 competitive services and noncompetitive services as required  
8 under this Article, including appropriate methods for  
9 calculating the long-run service incremental costs of  
10 providing any telecommunications service and, when  
11 appropriate, group of services and methods for apportioning  
12 between noncompetitive services in the aggregate and  
13 competitive services in the aggregate the value of facilities  
14 utilized and expenses incurred to provide both competitive  
15 and noncompetitive services, for example, common overheads  
16 that are not accounted for in the long-run service  
17 incremental costs of individual services or groups of  
18 services. The Commission may order any telecommunications  
19 carrier to conduct a long-run service incremental cost study  
20 and to provide the results thereof to the Commission. Any  
21 cost study provided to the Commission pursuant to the  
22 provisions of this Section may, in the Commission's  
23 discretion, be accorded proprietary treatment. In addition  
24 to the requirements of ~~subsection (e) of Section 13-502~~ and  
25 ~~of~~ Section 13-505.1 applicable to the rates and charges for  
26 individual competitive services, the aggregate gross revenues  
27 of all competitive services shall be equal to or greater than  
28 the sum of the long-run service incremental costs for all  
29 competitive services as a group and the value of other  
30 facilities and expenses apportioned to competitive services  
31 as a group under this Section.

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

33 (220 ILCS 5/13-514)

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

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

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

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

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

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

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

29 (6) unreasonably acting or failing to act in a manner  
30 that has a substantial adverse effect on the ability of  
31 another telecommunications carrier to provide service to its  
32 customers;

33 (7) unreasonably failing to offer services to customers  
34 in a local exchange, where a telecommunications carrier is

1 certificated to provide service and has entered into an  
 2 interconnection agreement for the provision of local exchange  
 3 telecommunications services, with the intent to delay or  
 4 impede the ability of the incumbent local exchange  
 5 telecommunications carrier to provide inter-LATA  
 6 telecommunications services; and

7 (8) violating the terms of or unreasonably delaying  
 8 implementation of an interconnection agreement entered into  
 9 pursuant to Section 252 of the federal Telecommunications Act  
 10 of 1996 in a manner that unreasonably delays or impedes the  
 11 availability of telecommunications services to consumers; and

12 (9) violating Section 13-715 of this Act.

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

14 (220 ILCS 5/13-515)

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

16 Sec. 13-515. Enforcement.

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

26 (b) The provisions of this Section shall not apply to an  
 27 allegation of a violation of item (8) of Section 13-514 by a  
 28 Bell operating company, as defined in Section 3 of the  
 29 federal Telecommunications Act of 1996, unless and until such  
 30 company or its affiliate is authorized to provide inter-LATA  
 31 services under Section 271(d) of the federal  
 32 Telecommunications Act of 1996; provided, however, that a  
 33 complaint setting forth a separate independent basis for a

1 violation of Section 13-514 may proceed under this Section  
2 notwithstanding that the alleged acts or omissions may also  
3 constitute a violation of item (8) of Section 13-514.

4 (c) No complaint may be filed under this Section until  
5 the complainant has first notified the respondent of the  
6 alleged violation and offered the respondent 48 hours to  
7 correct the situation. Provision of notice and the  
8 opportunity to correct the situation creates a rebuttable  
9 presumption of knowledge under Section 13-514.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

4 (220 ILCS 5/13-704) (from Ch. 111 2/3, par. 13-704)

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

6 Sec. 13-704. Telecommunications services billing.

7 (a) Customer bills for local and interexchange services  
8 shall be rendered at regular intervals and provide the  
9 following:

10 (1) the customer's name, address (or billing  
11 address, if different), telephone number, or account  
12 number;

13 (2) a toll-free telephone number to contact the  
14 carrier concerning the bill;

15 (3) the beginning and ending dates of the billing  
16 period;

17 (4) the current month's billing;

18 (5) any unpaid amounts from previous bills;

19 (6) any late payment charge;

20 (7) any nonrecurring, fractional, or nonbasic  
21 service charges;

22 (8) any charges for nonregulated services or  
23 products and a statement that nonpayment of those charges  
24 may result in the disconnection or restriction of those  
25 services and that those delinquencies may be subject to  
26 collection actions;

27 (9) any applicable taxes;

28 (10) any credits and charges applied to the account  
29 during the current billing period;

30 (11) the total amount due and payable;

31 (12) a statement as to how and where the bill may  
32 be paid;

33 (13) an explanation of codes and abbreviations

1 used; and

2 (14) a statement that, for unresolved inquiries,  
3 the customer may wish to call the Illinois Commerce  
4 Commission, and that notes the availability of the  
5 Complaint Arbitration Process established by Section  
6 13-714 of this Act. This statement shall include the  
7 current toll-free telephone numbers of the Commission and  
8 TDD/TTY number.

9 (b) A listing of current charges on a customer's bill  
10 for local service must include an itemization of all charges,  
11 the type of service, and call characteristics. Based on the  
12 customer's type of service, one of the following shall be  
13 provided:

14 (1) A monthly rate for local flat-rate service.

15 (2) A base rate, plus the charges rated by  
16 time-of-day and distance, associated with local calls  
17 completed under local measured service. Upon a customer's  
18 request, the following information shall be provided for  
19 each call free of charge once every 6 months, and for any  
20 additional months the itemization shall be provided in  
21 accordance with the carrier's tariffed charges on file at  
22 the Commission:

23 (A) the date and time of placement;

24 (B) the telephone number called;

25 (C) the distance;

26 (D) the duration;

27 (E) the rate applied; and

28 (F) the total charge per call.

29 (3) A base rate, the number of additional local  
30 message calls completed over and above the calls included  
31 in the base rate, and the charges for those calls.

32 (c) A listing of current charges on a customer's bill  
33 must include all interexchange services or toll calls that  
34 are either provided by the carrier or for which the carrier

1 acts as the billing and collections agent.

2 (d) The detail on the interexchange portion of a  
3 customer's bill must include:

4 (1) the date and time of placement;

5 (2) the destination, including city and state;

6 (3) the telephone number called, including area  
7 code;

8 (4) the rate applied;

9 (5) the duration; and

10 (6) the total charge.

11 (e) Immediately following the section of the bill that  
12 includes interexchange charges shall be a statement that  
13 nonpayment of those charges may result in the disconnection  
14 of interexchange service and may be subject to collection  
15 actions.

16 (f) The carrier shall retain the detailed customer  
17 billing information required to appear on the customer's bill  
18 for at least 18 months.

19 (g) The date after which the bill will be considered  
20 past due shall be clearly stated.

21 (h) Itemized listings of the basic, and of the optional  
22 services subscribed to, monthly rate of each service, and the  
23 amount of any security deposit being held by the company  
24 shall be included with each new customer's first bill, and  
25 annually for all residential and single access line service  
26 customers. Multiline nonresidential customers may also  
27 request this information on an annual basis, and it shall be  
28 provided free of charge. Each page of a billing statement  
29 which sets forth charges assessed against a customer by a  
30 telecommunications carrier for telecommunications service  
31 shall reflect the telephone number or customer account  
32 number to which the charges are being billed. The billing  
33 statement shall also contain a separate bill identifying  
34 the amount charged as an infrastructure maintenance fee. Each

1 page-of-a-billing-statement-which-sets-forth-charges-assessed  
 2 against--a--customer--by--a--telecommunications--carrier--for  
 3 telecommunications-service-shall-reflect-the-telephone-number  
 4 or--customer--account--number--to-which-the-charges-are-being  
 5 billed.--The-billing-statement-shall-also-contain-a--separate  
 6 bill--identifying--the--amount--charged--as-an-infrastructure  
 7 maintenance-fee.

8 (Source: P.A. 90-154, eff. 1-1-98.)

9 (220 ILCS 5/13-710 new)

10 Sec. 13-710. Disconnection of local exchange services.  
 11 Telecommunications carriers may not disconnect local exchange  
 12 telecommunications service for non-payment of interexchange  
 13 telecommunications services. Unspecified payment shall be  
 14 allocated first to local exchange telecommunications service.  
 15 The Commission shall adopt rules for the implementation of  
 16 this Section.

17 (220 ILCS 5/13-711 new)

18 Sec. 13-711. Disputes; toll-free number.  
 19 Telecommunications carriers must provide and maintain a  
 20 toll-free number that customers can call to obtain  
 21 information or resolve disputes for that carrier. The  
 22 toll-free number must be staffed by live operators during  
 23 normal business hours, at a minimum, and with sufficient  
 24 operators to answer the volume of calls normally received.

25 (220 ILCS 5/13-712 new)

26 Sec. 13-712. Service Quality.  
 27 (a) The Commission shall promulgate service quality  
 28 rules for all carriers.  
 29 (b) Carriers shall provide customers with a 4-hour  
 30 window when scheduling installation or repair appointments.  
 31 Whenever, for any reason, the appointment cannot be kept

1 within the prescribed interval, the company shall make  
2 reasonable efforts to notify the customer of the delay and  
3 the reason for the delay prior to the time of the scheduled  
4 appointment.

5 (c) Carriers must install basic service within 5  
6 business days after receipt of an order unless the customer  
7 requests an installation date beyond this 5-day benchmark.  
8 Carriers shall repair out-of-service conditions within 24  
9 hours.

10 (d) Customers waiting for installation of basic service  
11 longer than 5 business days or who have been out of service  
12 for more than 24 hours shall be entitled to the use of a  
13 wireless telephone (with battery and battery charger). At  
14 the customer's request, the carrier must provide a wireless  
15 telephone that is capable of making unlimited local telephone  
16 calls at no cost to the customer until phone service is  
17 either repaired or installed. The Commission shall adopt  
18 rules to implement this subsection.

19 (e) Repairs and installations shall be handled on a  
20 first-in, first-out basis (i.e., in the order received).  
21 Carriers may not discriminate between any classes of  
22 customers. Customer classes include, but are not limited to,  
23 residential, business, retail, wholesale, and large and small  
24 businesses.

25 (220 ILCS 5/13-713 new)

26 Sec. 13-713. Customer credits for service quality  
27 violations.

28 (a) If a carrier fails to repair an out-of-service  
29 condition within 24 hours, the carrier must provide to the  
30 customer a credit, in an amount determined by the Commission,  
31 for each day beyond the initial 24 hours that the service is  
32 not repaired. The credit shall be at least \$20 plus an annual  
33 adjustment equal to the rate of inflation.



1       (b) If a carrier fails to install new service within 5  
2 business days after an application for new service or fails  
3 to install the service by the requested installation date  
4 when at least 5 days notice is given, the carrier shall  
5 provide to the customer a credit, in an amount determined by  
6 the Commission, for each day beyond the initial 5 business  
7 days that the service is not installed. The credit shall be  
8 at least \$20 plus an annual adjustment equal to the rate of  
9 inflation.

10       (c) For each instance in which a carrier fails to keep a  
11 scheduled repair or installation appointment, the company  
12 shall credit the customer an amount determined by the  
13 Commission. The credit shall be at least \$50 plus an annual  
14 adjustment equal to the rate of inflation. The credits  
15 required by this subsection do not apply when the carrier  
16 provides the customer 24-hour notice of its inability to meet  
17 the appointment.

18       (d) The credits provided in this Section shall be in the  
19 form of either a direct payment to the customer or a credit  
20 to the customer's account within the next 2 billing periods.  
21 The Commission may adopt rules to implement this Section.

22       (220 ILCS 5/13-714 new)

23       Sec. 13-714. Complaint arbitration process.

24       (a) The Commission shall adopt an arbitration process  
25 for individual consumers with unresolved disputes with a  
26 carrier.

27       (b) The arbitration will be available only at the  
28 election of the consumer, and only when the amount in dispute  
29 is less than \$5,000. A consumer shall have the option to  
30 resolve a dispute via either the arbitration process or by  
31 filing a formal complaint, but not both.

32       (c) A telecommunications carrier shall ensure that an  
33 applicant or customer whose complaint the carrier is unable

1 to resolve is informed of the right to have that problem  
2 resolved through this arbitration process. The applicant or  
3 customer shall be provided with the toll-free telephone  
4 number and address of the Commission.

5 (d) The arbitration process adopted by the Commission  
6 shall:

7 (1) be provided at no cost to complainants;

8 (2) be conducted in a language understood by the  
9 complainant;

10 (3) be structured such that arbitrators hear any  
11 complaint subject to this process brought to the  
12 Commission no later than 45 days after the date that the  
13 Commission receives the initial request for arbitration  
14 and render a decision within 60 days after the date that  
15 the Commission receives the initial request for  
16 arbitration, unless the complainant causes the delay; and

17 (4) shall ensure that sufficient personnel to act  
18 as arbitrators in order to meet the 60-day deadline for  
19 rulings are available.

20 (e) When a complaint is brought to the Commission for  
21 simplified arbitration, the Commission shall notify the  
22 carrier within 2 working days of the identity of the  
23 complainant and the nature of the complaint. Within 10  
24 working days after receiving notice from the Commission, the  
25 carrier shall report the results of any investigation made  
26 regarding the complaint to the Commission. If warranted in a  
27 particular case, a carrier may request an extension of time.

28 (f) During this arbitration process the Commission shall  
29 encourage the informal settlement of disputes whenever  
30 possible. Parties to an arbitration may agree to negotiate at  
31 any time without Commission oversight.

32 (g) A customer or applicant who has a complaint pending  
33 with the Commission under this simplified arbitration process  
34 is entitled to continued or restored service provided:

1           (1) service was not terminated for theft of service  
2           or failure to establish credit;

3           (2) when termination is based on nonpayment, the  
4           customer or applicant makes adequate arrangement to avoid  
5           future loss to the telecommunications carrier, such as  
6           prepaying estimated monthly telecommunications services  
7           charges; and

8           (3) the customer or applicant diligently pursues  
9           complaint resolution under the simplified arbitration  
10          process.

11          (h) If the conditions in subsection (g) are not  
12          satisfied, the carrier has no obligation to provide continued  
13          service. In deciding whether the conditions are met, the  
14          telecommunications carrier shall consult with the arbitrator  
15          assigned to the complaint.

16          (i) The arbitrator's decision is final and binding upon  
17          the parties unless appealed within 5 business days to the  
18          Commission. The Commission shall rule on the appeal within  
19          30 days.

20           (220 ILCS 5/13-715 new)

21           Sec. 13-715. Marketing of telecommunications services.

22          (a) Any marketing materials or other solicitations that  
23          make statements concerning a telecommunications product or  
24          service must contain information that adequately discloses  
25          the prices, terms, and conditions of the products or services  
26          that the telecommunications carrier is offering or selling to  
27          the customer. All terms and conditions shall be plainly  
28          stated in understandable language.

29          (b) A telecommunications carrier may not engage in  
30          fraudulent, unfair, misleading, deceptive, or  
31          anti-competitive business practices.

32          (c) When a customer's primary exchange or interexchange  
33          telecommunications service is switched to another carrier or

1 when an additional telecommunications service is added to a  
2 customer's account, a carrier must give the customer  
3 written information that adequately discloses, in plain  
4 language, the prices, terms, and conditions of the products  
5 and services being offered and sold to the customer.

6 (d) The Commission may establish a uniform method of  
7 price disclosure that will permit consumers to make informed  
8 comparisons and decisions in selecting telecommunications  
9 services.

10 (e) A telecommunications carrier shall publish on its  
11 website the rates, terms, and conditions of its publicly  
12 available service offerings, along with copies of all the  
13 carrier's current tariffs.

14 (f) The Commission shall adopt rules to implement this  
15 Section. The rules shall, at a minimum, provide for payment  
16 of damages, refunds, and restitution to consumers harmed by a  
17 violation of this Section.

18 (220 ILCS 5/13-902)

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

20 Sec. 13-902. Rules for verification of a subscriber's  
21 change in telecommunications carrier or addition to a  
22 subscriber's service.

23 (a) As used in this Section, "subscriber" means a  
24 telecommunications carrier's retail business customer served  
25 by not more than 20 lines or a retail residential customer,  
26 and "telecommunications carrier" has the meaning given in  
27 Section 13-202 of the Public Utilities Act, except that  
28 "telecommunications carrier" does not include a provider of  
29 commercial mobile radio services (as defined by 47 U.S.C.  
30 332(d)(1)).

31 (b) A subscriber's presubscription of a primary exchange  
32 or interexchange telecommunications carrier may not be  
33 switched to another telecommunications carrier without the

1 subscriber's authorization. A telecommunications carrier must  
2 change a subscriber's primary or interexchange  
3 telecommunications carrier within 10 business days of  
4 receiving the verification of the subscriber's authorization  
5 for the change. Where technically feasible, the  
6 telecommunications carrier, in effectuating the change, must  
7 also transfer the associated telephone number to the new  
8 telecommunications carrier.

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

20 (d) It is the responsibility of the company or carrier  
21 requesting a change in a subscriber's telecommunications  
22 carrier to obtain the subscriber's authorization for the  
23 change whenever the company or carrier acts as a subscriber's  
24 agent with respect to the change.

25 (e) A company or telecommunications carrier submitting a  
26 change in a subscriber's primary exchange or interexchange  
27 telecommunications carrier as described in subsection (d)  
28 shall be solely responsible for providing written notice of  
29 the change to the subscriber in accordance with this Section,  
30 or for obtaining verification of the subscriber's assent to  
31 the change in accordance with this Section. In addition, a  
32 telecommunications carrier that provides any additional  
33 telecommunications service to a subscriber shall be solely  
34 responsible for providing written notice of the additional

1 telecommunications service to the subscriber in accordance  
2 with this Section, or for obtaining verification of the  
3 subscriber's assent to the additional telecommunications  
4 service in accordance with this Section.

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

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

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

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

27 (2) If the company or telecommunications carrier  
28 elects to obtain verification in accordance with this  
29 Section, verification shall be obtained as follows:

30 (A) Verification shall be obtained by an  
31 independent third-party that:

32 (i) operates from a facility physically  
33 separate from that of the telecommunications  
34 carrier or company seeking the change or

1 addition of service;

2 (ii) is not directly or indirectly  
3 managed, controlled, directed, or owned wholly  
4 or in part by the telecommunications carrier or  
5 company seeking the change or addition of  
6 telecommunications services;

7 (iii) does not derive commissions or  
8 compensation based upon the number of sales,  
9 changes, or additions confirmed; and

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

12 (B) The third-party verification agent shall  
13 state to the subscriber, and shall obtain the  
14 subscriber's acknowledgement to, the following  
15 disclosures:

16 (i) the consumer's name, address, and the  
17 telephone numbers of all telephone lines that  
18 will be changed or to which additional  
19 telecommunications services will be added;

20 (ii) the names of the telecommunications  
21 carrier or company that is replacing the  
22 previous presubscribed telecommunications  
23 carrier or adding a telecommunications service  
24 to the subscriber's account and, where  
25 applicable, the name of the carriers being  
26 replaced;

27 (iii) in cases where verification is  
28 sought for the subscriber's presubscribed  
29 telecommunications carrier, that for each line  
30 the subscriber can designate only one  
31 presubscribed telecommunications carrier to  
32 handle each of the subscriber's local, long  
33 distance, or local toll service depending upon  
34 which presubscribed telecommunications service

1 or services are being verified; and

2 (iv) the fact that a fee may be imposed  
3 on the subscriber for the change of primary  
4 exchange or interexchange telecommunications  
5 carriers or that a monthly recurring fee may be  
6 charged for the additional service, if that is  
7 the case.

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

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

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



1 and the change was initiated through inbound  
2 telemarketing, the telecommunications carrier shall  
3 comply with all rules or regulations promulgated by the  
4 Federal Communications Commission.

5 (4) Verifications conducted or obtained in a manner  
6 not in compliance with this Section or notice given in a  
7 manner not in compliance with this Section shall be void  
8 and without effect.

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

19 (g) Complaints may be filed with the Commission under  
20 this Section by a subscriber whose primary exchange or  
21 interexchange carrier has been changed to another  
22 telecommunications carrier without authorization or whose  
23 primary exchange or interexchange carrier has not been  
24 changed as authorized or who has been provided an additional  
25 telecommunications service not ordered by the subscriber, by  
26 a telecommunications carrier that has been removed as a  
27 subscriber's primary exchange or interexchange  
28 telecommunications carrier without authorization, or by the  
29 Commission on its own motion. Upon filing of the complaint,  
30 the parties may mutually agree to submit the complaint to the  
31 Commission's established mediation process. Remedies in the  
32 mediation process may include, but shall not be limited to,  
33 the remedies set forth in paragraphs (1) through (5) of this  
34 subsection. In its discretion, the Commission may deny the

1 availability of the mediation process and submit the  
2 complaint to hearings. If the complaint is not submitted to  
3 mediation or if no agreement is reached during the mediation  
4 process, hearings shall be held on the complaint pursuant to  
5 Article 10 of this Act. If after notice and hearing, the  
6 Commission finds that a telecommunications carrier has  
7 violated this Section or a rule promulgated under this  
8 Section, the Commission may in its discretion order any one  
9 or more of the following:

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

1 Communications Commission.

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

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

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

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

30 (6) Issue a cease and desist order.

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

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

2 (220 ILCS 5/13-802 rep.)

3 (220 ILCS 5/13-803 rep.)

4 Section 10. The Public Utilities Act is amended by  
5 repealing Sections 13-802 and 13-803.

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law."