

1 AN ACT concerning telecommunications.

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

4 Section 5. The Public Utilities Act is amended by adding
5 Sections 13-306 and 13-516.5 and Article XIIIIE as follows:

6 (220 ILCS 5/13-306 new)

7 Sec. 13-306. Infrastructure reports.

8 (a) A telecommunications carrier that provides both
9 competitive and noncompetitive services must file a network
10 infrastructure report with the Commission no later than the
11 15th day of each month. The report must contain detailed
12 information sufficient to enable the Commission to determine
13 if the carrier is engaged in redlining in the provision of
14 services, particularly focusing on the provision of advanced
15 telecommunications services. The report must contain
16 information, detailed by exchange, on investments, upgrades,
17 outages, services provided, and any other matter that the
18 Commission deems relevant.

19 (b) The Commission must perform an annual network
20 infrastructure audit of all telecommunications carriers
21 providing both competitive and noncompetitive services. The
22 Commission shall report its network infrastructure findings
23 to the General Assembly by January 15 of each year. The
24 Commission's annual network infrastructure report shall
25 include any findings of redlining and shall compare the
26 investments in and quality of the networks owned by carriers
27 providing both competitive and noncompetitive services in
28 Illinois to those in other States.

29 (220 ILCS 5/13-516.5 new)

30 Sec. 13-516.5 Dividend limitations. A telecommunications

1 carrier that is an incumbent local exchange carrier may not
 2 declare any cash, stock, bond, or scrip dividend or
 3 distribution or divide the proceeds of the sale of any stock,
 4 bond, or scrip among its stockholders while the carrier is in
 5 violation of a Commission order or while there exists against
 6 the carrier a Commission finding of failure to meet
 7 structural separation obligations under this Act, except upon
 8 Commission approval after notice and hearing.

9 (220 ILCS 5/Art. XIIIIE heading new)

10 ARTICLE XIIIIE. STRUCTURAL SEPARATION

11 (220 ILCS 5/13E-101 new)

12 Sec. 13E-101. Definitions. In this Article the terms
 13 defined in this Section have the meanings indicated.

14 "Competitive local exchange carrier" means a telephone
 15 company authorized by the Commission to provide retail local
 16 telecommunications services that was not an incumbent local
 17 exchange carrier in this State on the effective date of the
 18 federal Telecommunications Act of 1996.

19 "Incumbent local exchange carrier" means a telephone
 20 company that provided local exchange telephone services to a
 21 majority of the access lines in the State on the effective
 22 date of the federal Telecommunications Act of 1996.

23 "Retail affiliate" means a telephone company created by
 24 the structural separation of the incumbent local exchange
 25 carrier required under Section 13E-110 of this Article to
 26 provide retail local telecommunications services.

27 "Wholesale affiliate" means a telephone company created
 28 by the structural separation of the incumbent local exchange
 29 carrier required under Section 13E-110 of this Article to
 30 provide wholesale telecommunications services to competitive
 31 local exchange carriers and to the retail affiliate.

1 (220 ILCS 5/13E-105 new)

2 Sec. 13E-105. Findings. The General Assembly finds and
3 declares that:

4 (1) action is needed to develop and maintain
5 vibrant and irreversible competition in all intrastate
6 telecommunications markets throughout Illinois;

7 (2) development of fully competitive Illinois
8 telecommunications markets will ensure that consumers
9 receive the widest possible array of services at
10 competitively determined prices; and

11 (3) competition will promote and enhance economic
12 development opportunities in rural, urban, and suburban
13 areas of this State.

14 (220 ILCS 5/13E-110 new)

15 Sec. 13E-110. Structural separation of operations.

16 (a) In addition to any other requirements of law, an
17 incumbent local exchange carrier must structurally separate
18 its retail operations from its wholesale operations by
19 creating a retail affiliate and a wholesale affiliate,
20 consistent with proceedings of the Commission to implement
21 this Article.

22 (b) The retail affiliate and the wholesale affiliate
23 must conduct their respective operations in accordance with
24 this Section.

25 (c) The retail affiliate must operate as a competitive
26 local exchange carrier.

27 (d) The wholesale affiliate must own and operate all
28 network facilities of the incumbent local exchange carrier as
29 it existed before the effective date of the structural
30 separation.

31 (e) The wholesale affiliate must operate completely
32 independently from the retail affiliate. The retail affiliate
33 may not jointly own with the wholesale affiliate, or

1 otherwise control, any network facilities or the land,
2 buildings, poles, conduits, or rights-of-way on or in which
3 network facilities are located.

4 (f) (1) All transactions and agreements between the
5 retail affiliate and the wholesale affiliate:

6 (A) must be at arm's length;

7 (B) must be reduced to writing and be
8 available for public inspection; and

9 (C) may not take effect until approved by the
10 Commission.

11 (2) The Commission may not approve a transaction
12 between the wholesale affiliate and the retail affiliate
13 until all interested parties have had an opportunity to
14 be heard and unless the Commission affirmatively finds
15 that the transaction:

16 (A) does not discriminate against competitive
17 local exchange carriers; and

18 (B) will not result in any cross-subsidization
19 between the wholesale affiliate and the retail
20 affiliate.

21 (g) The retail affiliate and wholesale affiliate must:

22 (1) maintain separate books, records, and accounts;
23 and

24 (2) have separate officers, directors, and
25 employees.

26 (h) The wholesale affiliate may not discriminate in
27 favor of the retail affiliate, and the retail affiliate may
28 not discriminate in favor of the wholesale affiliate.

29 (i) The wholesale affiliate must make all products,
30 services, and service functions, including network elements,
31 facilities, interfaces, and systems, available to each
32 competitive local exchange carrier at the prices, terms, and
33 conditions at which they are available to the retail
34 affiliate. The wholesale affiliate may make all of those

1 products, services, and service functions available to an
 2 affiliated or unaffiliated competitive local exchange carrier
 3 only through a tariff or an interconnection agreement
 4 approved by the Commission.

5 (220 ILCS 5/13E-115 new)

6 Sec. 13E-115. Procedure and enforcement under Article.

7 (a) The Commission may adopt:

8 (1) streamlined procedures for review of
 9 transactions between the retail affiliate and the
 10 wholesale affiliate;

11 (2) enforcement measures for violations of this
 12 Article, including auditing requirements; and

13 (3) any other requirement or procedure necessary or
 14 appropriate for implementation of this Article.

15 (b) The Commission may enforce the requirements of this
 16 Article under the provision of Article X.

17 (220 ILCS 5/13E-205 new)

18 Sec. 13E-205. Commencement of proceedings.

19 (a) On or before August 1, 2002, the Commission shall
 20 begin proceedings to implement this Article. The Commission
 21 shall conclude the proceedings on or before February 1,
 22 2003.

23 (b) As part of its proceedings to implement this
 24 Article, the Commission, after providing all interested
 25 parties a full opportunity to submit proposals, offer
 26 comments, and participate in hearings, shall by order or
 27 rule, establish a code of conduct governing the relationship
 28 between the retail affiliate and the wholesale affiliate to
 29 ensure that:

30 (1) the retail affiliate is not given any undue
 31 preference or advantage in its relationship with the
 32 wholesale affiliate; and

1 (2) all services provided by the wholesale
2 affiliate to the retail affiliate are provided in a
3 nondiscriminatory manner as required under this Article
4 and other applicable law.

5 (220 ILCS 5/13E-210 new)

6 Sec. 13E-210. Report to the General Assembly. On or
7 before January 14, 2003, the Commission shall report to the
8 General Assembly on the status of competition in local
9 exchange telephone service in this State and on the
10 implementation of this Article.

11 Section 99. Effective date. This Act takes effect July
12 1, 2002.