

1 AMENDMENT TO SENATE BILL 10

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

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

6 (15 ILCS 205/6.5)

7 Sec. 6.5. Consumer Utilities Unit.

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

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

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

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

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

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

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

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

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

17 (30 ILCS 105/5.545 new)

18 Sec. 5.545. The Digital Divide Elimination Fund.

19 (30 ILCS 105/5.546 new)

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

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

25 (30 ILCS 780/5-20 new)

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

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

2 (30 ILCS 780/5-30)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Consumer Fraud and Deceptive Business Practices Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 21 (1) \$25 for each month or portion of a month that
22 the installment or required payment is unpaid or
- 23 (2) an amount equal to the difference between what
24 should have been paid on the due date, based upon the
25 most recently filed estimated, annual, or amended return
26 estimate, and what was actually paid, times 1%, for each
27 month or portion of a month that the installment or
28 required payment goes unpaid. This penalty may be
29 assessed as soon as the installment or required payment
30 becomes delinquent.

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

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

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

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

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

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

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

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

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

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

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

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

1 this Section is void.

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

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

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

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

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

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

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

1 without discrimination and without delay.

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

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

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

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

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

19 (220 ILCS 5/10-101.1 new)

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

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

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

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

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

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

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

6 (2) amendments to the pleadings;

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

9 (4) limitations on discovery including:

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

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

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

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

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

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

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

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

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

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

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

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

2 (220 ILCS 5/13-202.5 new)

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

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

11 (220 ILCS 5/13-216 new)

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

21 (220 ILCS 5/13-217 new)

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

27 (220 ILCS 5/13-218 new)

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

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

13 (220 ILCS 5/13-219 new)

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

16 (220 ILCS 5/13-220 new)

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

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

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

31 Sec. 13-301.1. Universal Telephone Service Assistance

1 Program.

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

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

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

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

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

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

18 (220 ILCS 5/13-301.2 new)

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

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

7 (220 ILCS 5/13-301.3 new)

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

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

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

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

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

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

11 (220 ILCS 5/13-303 new)

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

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

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

25 (220 ILCS 5/13-303.5 new)

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

31 (220 ILCS 5/13-304 new)

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

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

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

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

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

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

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

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

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

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

28 (220 ILCS 5/13-305 new)

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

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

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

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

1 continuance thereof shall be a separate and distinct offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 Sec. 13-501. Tariff; filing.

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

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

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

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

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

29 Sec. 13-502. Classification of services.

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

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

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

34 (c) In determining whether a service should be

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

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

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

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

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

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

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

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

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

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

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

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

5 (220 ILCS 5/13-502.5 new)

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

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

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

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

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

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

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

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

6 (f) Any telecommunications carrier subject to any action
 7 or proceeding pending before the Commission on the effective
 8 date of this amendatory Act of the 92nd General Assembly in
 9 which it is alleged that the telecommunications carrier has
 10 improperly classified services as competitive shall, upon the
 11 abatement of any and all such pending actions pursuant to the
 12 provisions of this Section 13-505.2, commit to invest an
 13 additional \$1,000,000,000 in its network infrastructure in
 14 Illinois between January 1, 2000 and June 30, 2005, over and
 15 above any existing investment commitment contained in any
 16 merger order heretofore entered pursuant to Section 7-204 of
 17 the Public Utilities Act.

18 (g) All other services shall be classified pursuant to
 19 Section 13-502 of this Act.

20 (220 ILCS 5/13-509) (from Ch. 111 2/3, par. 13-509)

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

22 Sec. 13-509. Agreements for provisions of competitive
 23 telecommunications services differing from tariffs. A
 24 telecommunications carrier may negotiate with customers or
 25 prospective customers to provide competitive
 26 telecommunications service, and in so doing, may offer or
 27 agree to provide such service on such terms and for such
 28 rates or charges as are reasonable, without regard to any
 29 tariffs it may have filed with the Commission with respect to
 30 such services. Within 30 ~~10~~ business days after executing
 31 any such agreement, the telecommunications carrier shall file
 32 any contract or memorandum of understanding for the provision
 33 of telecommunications service, which shall include the rates

1 or other charges, practices, rules or regulations applicable
2 to the agreed provision of such service. Any cost support
3 required to be filed with the agreement by some other Section
4 of this Act shall be filed within 30 business calendar days
5 after executing any such agreement. Where the agreement
6 contains the same rates, charges, practices, rules, and
7 regulations found in a single contract or memorandum already
8 filed by the telecommunications carrier with the Commission,
9 instead of filing the contract or memorandum, the
10 telecommunications carrier may elect to file a letter
11 identifying the new agreement and specifically referencing
12 the contract or memorandum already on file with the
13 Commission which contains the same provisions. A single
14 letter may be used to file more than one new agreement. Upon
15 filing its contract or memorandum, or letter, the
16 telecommunications carrier shall thereafter provide service
17 according to the terms thereof, unless the Commission finds,
18 after notice and hearing, that the continued provision of
19 service pursuant to such contract or memorandum would
20 substantially and adversely affect the financial integrity of
21 the telecommunications carrier or would violate any other
22 provision of this Act.

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

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

27 (220 ILCS 5/13-514)

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

29 Sec. 13-514. Prohibited Actions of Telecommunications
30 Carriers. A telecommunications carrier shall not knowingly
31 impede the development of competition in any
32 telecommunications service market. The following prohibited
33 actions are considered per se impediments to the development

1 of competition; however, the Commission is not limited in any
2 manner to these enumerated impediments and may consider other
3 actions which impede competition to be prohibited:

4 (1) unreasonably refusing or delaying interconnections
5 or collocation or providing inferior connections to another
6 telecommunications carrier;

7 (2) unreasonably impairing the speed, quality, or
8 efficiency of services used by another telecommunications
9 carrier;

10 (3) unreasonably denying a request of another provider
11 for information regarding the technical design and features,
12 geographic coverage, information necessary for the design of
13 equipment, and traffic capabilities of the local exchange
14 network except for proprietary information unless such
15 information is subject to a proprietary agreement or
16 protective order;

17 (4) unreasonably delaying access in connecting another
18 telecommunications carrier to the local exchange network
19 whose product or service requires novel or specialized access
20 requirements;

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

23 (6) unreasonably acting or failing to act in a manner
24 that has a substantial adverse effect on the ability of
25 another telecommunications carrier to provide service to its
26 customers;

27 (7) unreasonably failing to offer services to customers
28 in a local exchange, where a telecommunications carrier is
29 certificated to provide service and has entered into an
30 interconnection agreement for the provision of local exchange
31 telecommunications services, with the intent to delay or
32 impede the ability of the incumbent local exchange
33 telecommunications carrier to provide inter-LATA
34 telecommunications services; and

1 (8) violating the terms of or unreasonably delaying
 2 implementation of an interconnection agreement entered into
 3 pursuant to Section 252 of the federal Telecommunications Act
 4 of 1996 in a manner that unreasonably delays, increases the
 5 cost, or impedes the availability of telecommunications
 6 services to consumers;

7 (9) unreasonably refusing or delaying access to or
 8 provision of operation support systems to another
 9 telecommunications carrier or providing inferior operation
 10 support systems to another telecommunications carrier;

11 (10) unreasonably failing to offer network elements that
 12 the Commission or the Federal Communications Commission has
 13 determined must be offered on an unbundled basis to another
 14 telecommunications carrier in a manner consistent with the
 15 Commission's or Federal Communications Commission's orders or
 16 rules requiring such offerings;

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

18 (12) violating an order of the Commission involving
 19 telecommunications carriers.

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

21 (220 ILCS 5/13-515)

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

23 Sec. 13-515. Enforcement.

24 (a) The following expedited procedures shall be used to
 25 enforce the provisions of Section 13-514 of this Act ~~except~~
 26 ~~as provided in subsection (b)~~. However, the Commission, the
 27 complainant, and the respondent may mutually agree to adjust
 28 the procedures established in this Section. ~~If the~~
 29 ~~Commission determines, pursuant to subsection (b), that the~~
 30 ~~procedural provisions of this Section do not apply, the~~
 31 ~~complaint shall continue pursuant to the general complaint~~
 32 ~~provisions of Article X.~~

33 (b) (Blank). ~~The provisions of this Section shall not~~

1 apply--to-an-allegation-of-a-violation-of-item-(8)-of-Section
 2 13-514-by-a-Bell-operating-company, as-defined-in--Section--3
 3 of--the--federal--Telecommunications--Act-of-1996, unless-and
 4 until-such-company-or-its-affiliate-is-authorized-to--provide
 5 inter-LATA--services--under--Section--271(d)--of--the-federal
 6 Telecommunications-Act-of-1996;--provided, however,--that--a
 7 complaint--setting--forth--a-separate-independent-basis-for-a
 8 violation-of-Section-13-514-may-proceed--under--this--Section
 9 notwithstanding--that--the-alleged-acts-or-emissions-may-also
 10 constitute-a-violation-of-item-(8)-of-Section-13-514.

11 (c) No complaint may be filed under this Section until
 12 the complainant has first notified the respondent of the
 13 alleged violation and offered the respondent 48 hours to
 14 correct the situation. Provision of notice and the
 15 opportunity to correct the situation creates a rebuttable
 16 presumption of knowledge under Section 13-514. After the
 17 filing of a complaint under this Section, the parties may
 18 agree to follow the mediation process under Section 10-101.1
 19 of this Act. The time periods specified in subdivision
 20 (d)(7) of this Section shall be tolled during the time spent
 21 in mediation under Section 10-101.1.

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

25 (1) The complaint shall be filed with the Chief
 26 Clerk of the Commission and shall be served in hand upon
 27 the respondent, the executive director, and the general
 28 counsel of the Commission at the time of the filing.

29 (2) A complaint filed under this subsection shall
 30 include a statement that the requirements of subsection
 31 (c) have been fulfilled and that the respondent did not
 32 correct the situation as requested.

33 (3) Reasonable discovery specific to the issue of
 34 the complaint may commence upon filing of the complaint.

1 Requests for discovery must be served in hand and
2 responses to discovery must be provided in hand to the
3 requester within 14 days after a request for discovery is
4 made.

5 (4) An answer and any other responsive pleading to
6 the complaint shall be filed with the Commission and
7 served in hand at the same time upon the complainant, the
8 executive director, and the general counsel of the
9 Commission within 7 days after the date on which the
10 complaint is filed.

11 (5) If the answer or responsive pleading raises the
12 issue that the complaint violates subsection (i) of this
13 Section, the complainant may file a reply to such
14 allegation within 3 days after actual service of such
15 answer or responsive pleading. Within 4 days after the
16 time for filing a reply has expired, the hearing officer
17 or arbitrator shall either issue a written decision
18 dismissing the complaint as frivolous in violation of
19 subsection (i) of this Section including the reasons for
20 such disposition or shall issue an order directing that
21 the complaint shall proceed.

22 (6) A pre-hearing conference shall be held within
23 14 days after the date on which the complaint is filed.

24 (7) The hearing shall commence within 30 days of
25 the date on which the complaint is filed. The hearing
26 may be conducted by a hearing examiner or by an
27 arbitrator. Parties and the Commission staff shall be
28 entitled to present evidence and legal argument in oral
29 or written form as deemed appropriate by the hearing
30 examiner or arbitrator. The hearing examiner or
31 arbitrator shall issue a written decision within 60 days
32 after the date on which the complaint is filed. The
33 decision shall include reasons for the disposition of the
34 complaint and, if a violation of Section 13-514 is found,

1 directions and a deadline for correction of the
2 violation.

3 (8) Any party may file a petition requesting the
4 Commission to review the decision of the hearing examiner
5 or arbitrator within 5 days of such decision. Any party
6 may file a response to a petition for review within 3
7 business days after actual service of the petition.
8 After the time for filing of the petition for review, but
9 no later than 15 days after the decision of the hearing
10 examiner or arbitrator, the Commission shall decide to
11 adopt the decision of the hearing examiner or arbitrator
12 or shall issue its own final order.

13 (e) If the alleged violation has a substantial adverse
14 effect on the ability of the complainant to provide service
15 to customers, the complainant may include in its complaint a
16 request for an order for emergency relief. The Commission,
17 acting through its designated hearing examiner or arbitrator,
18 shall act upon such a request within 2 business days of the
19 filing of the complaint. An order for emergency relief may
20 be granted, without an evidentiary hearing, upon a verified
21 factual showing that the party seeking relief will likely
22 succeed on the merits, that the party will suffer irreparable
23 harm in its ability to serve customers if emergency relief is
24 not granted, and that the order is in the public interest.
25 An order for emergency relief shall include a finding that
26 the requirements of this subsection have been fulfilled and
27 shall specify the directives that must be fulfilled by the
28 respondent and deadlines for meeting those directives. The
29 decision of the hearing examiner or arbitrator to grant or
30 deny emergency relief shall be considered an order of the
31 Commission unless the Commission enters its own order within
32 2 calendar days of the decision of the hearing examiner or
33 arbitrator. The order for emergency relief may require the
34 responding party to act or refrain from acting so as to

1 protect the provision of competitive service offerings to
2 customers. Any action required by an emergency relief order
3 must be technically feasible and economically reasonable and
4 the respondent must be given a reasonable period of time to
5 comply with the order.

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

25 (g) The Commission shall assess the parties under this
26 subsection for all of the Commission's costs of investigation
27 and conduct of the proceedings brought under this Section
28 including, but not limited to, the prorated salaries of
29 staff, attorneys, hearing examiners, and support personnel
30 and including any travel and per diem, directly attributable
31 to the complaint brought pursuant to this Section, but
32 excluding those costs provided for in subsection (f),
33 dividing the costs according to the resolution of the
34 complaint brought under this Section. All assessments made

1 under this subsection shall be paid into the Public Utility
2 Fund within 60 days after receiving notice of the assessments
3 from the Commission. Interest at the statutory rate shall
4 accrue after the expiration of the 60 day period. The
5 Commission is authorized to apply to a court of competent
6 jurisdiction for an order requiring payment.

7 (h) If the Commission determines that there is an
8 imminent threat to competition or to the public interest, the
9 Commission may, notwithstanding any other provision of this
10 Act, seek temporary, preliminary, or permanent injunctive
11 relief from a court of competent jurisdiction either prior to
12 or after the hearing.

13 (i) A party shall not bring or defend a proceeding
14 brought under this Section or assert or controvert an issue
15 in a proceeding brought under this Section, unless there is a
16 non-frivolous basis for doing so. By presenting a pleading,
17 written motion, or other paper in complaint or defense of the
18 actions or inaction of a party under this Section, a party is
19 certifying to the Commission that to the best of that party's
20 knowledge, information, and belief, formed after a reasonable
21 inquiry of the subject matter of the complaint or defense,
22 that the complaint or defense is well grounded in law and
23 fact, and under the circumstances:

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

28 (2) the allegations and other factual contentions
29 have evidentiary support or, if specifically so
30 identified, are likely to have evidentiary support after
31 reasonable opportunity for further investigation or
32 discovery as defined herein.

33 (j) If, after notice and a reasonable opportunity to
34 respond, the Commission determines that subsection (i) has

1 been violated, the Commission shall impose appropriate
 2 sanctions upon the party or parties that have violated
 3 subsection (i) or are responsible for the violation. The
 4 sanctions shall be not more than \$30,000 ~~\$7,500~~, plus the
 5 amount of expenses accrued by the Commission for conducting
 6 the hearing. Payment of sanctions imposed under this
 7 subsection shall be made to the Common School Fund within 30
 8 days of imposition of such sanctions.

9 (k) An appeal of a Commission Order made pursuant to
 10 this Section shall not effectuate a stay of the Order unless
 11 a court of competent jurisdiction specifically finds that the
 12 party seeking the stay will likely succeed on the merits,
 13 that the party will suffer irreparable harm without the stay,
 14 and that the stay is in the public interest.

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

16 (220 ILCS 5/13-516)

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

18 Sec. 13-516. Enforcement remedies Penalties for violation
 19 ~~of-a-Commission-order-relating-to~~ prohibited actions by ~~of~~
 20 telecommunications carriers.

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

24 (1) A Commission order directing the violating
 25 telecommunications carrier to cease and desist from
 26 violating the Act or a Commission order or rule.

27 (2) Notwithstanding any other provision of this
 28 Act, the Commission may impose penalties of up to \$30,000
 29 or 0.00825% of the carrier's gross intrastate annual
 30 telecommunications revenue, whichever is greater, per
 31 violation unless the carrier has fewer than 35,000
 32 subscriber access lines, in which case the civil penalty
 33 may not exceed \$2,000 per violation ~~of-a-final-order-or~~

1 emergency-relief-order-issued-pursuant-to-Section--13-515
2 of--this--Act. Penalties under this Section shall attach
3 and begin to accrue from the day after the date upon
4 which the Commission enters an order determining that the
5 corporation or person has violated or is in violation of
6 the order, decision, rule, regulation, direction, or
7 requirement of the Commission, or part or provision
8 thereof; or upon the day after the date upon which the
9 Commission enters an order directing the corporation or
10 person to cease and desist from violating the order,
11 decision, rule, regulation, direction, or requirement of
12 the Commission, or part or provision thereof; whichever
13 is the earlier. Each day of a continuing offense shall be
14 treated as a separate violation for purposes of levying
15 any penalty under this Section. ~~The-period-for-which-the~~
16 ~~fine-shall-be--levied--shall--commence--on--the--day--the~~
17 ~~Commission--order--requires-compliance-with-the-order-and~~
18 ~~shall-continue-until-the-party-is-in-compliance-with--the~~
19 ~~Commission-order.~~

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

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

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

32 (d) Unless enforcement of an order entered by the
33 Commission under Section 13-515 otherwise directs or is
34 stayed by the Commission or by an appellate court reviewing

1 the Commission's order, at any time after 30 days from the
2 entry of the order, either the Commission, or the
3 telecommunications carrier found by the Commission to have
4 been subjected to a violation of Section 13-514, or both, is
5 authorized to petition a court of competent jurisdiction for
6 an order at law or in equity requiring enforcement of the
7 Commission order. The court shall determine (1) whether the
8 Commission entered the order identified in the petition and
9 (2) whether the violating telecommunications carrier has
10 complied with the Commission's order. A certified copy of a
11 Commission order shall be prima facie evidence that the
12 Commission entered the order so certified. Pending the
13 court's resolution of the petition, the court may award
14 temporary or preliminary injunctive relief, or such other
15 equitable relief as may be necessary, to effectively
16 implement and enforce the Commission's order in a timely
17 manner.

18 If after a hearing the court finds that the Commission
19 entered the order identified in the petition and that the
20 violating telecommunications carrier has not complied with
21 the Commission's order, the court shall enter judgment
22 requiring the violating telecommunications carrier to comply
23 with the Commission's order and order such relief at law or
24 in equity as the court deems necessary to effectively
25 implement and enforce the Commission's order in a timely
26 manner. The court shall also award to the petitioner, or
27 petitioners, attorney's fees and costs, which shall be taxed
28 and collected as part of the costs of the case.

29 If the court finds that the violating telecommunications
30 carrier has failed to comply with the timely payment of
31 damages, attorney's fees, or costs ordered by the Commission,
32 the court shall order the violating telecommunications
33 carrier to pay to the telecommunications carrier or carriers
34 awarded the damages, fees, or costs by the Commission

1 additional damages for the sake of example and by way of
 2 punishment for the failure to timely comply with the order of
 3 the Commission, unless the court finds a reasonable basis for
 4 the violating telecommunications carrier's failure to make
 5 timely payment according to the Commission's order, in which
 6 instance the court shall establish a new date for payment to
 7 be made. ~~The Commission is authorized to apply to a court of~~
 8 ~~competent jurisdiction for an order requiring payment of~~
 9 ~~penalties imposed under subsection (a).~~

10 (e) Payment of damages, attorney's fees, and costs
 11 penalties imposed under subsection (a) shall be made within
 12 30 days after issuance of the Commission order imposing the
 13 penalties, damages, attorney's fees, or costs, unless
 14 otherwise directed by the Commission or a reviewing court
 15 under an appeal taken pursuant to Article X. Payment of
 16 penalties imposed under subsection (a) shall be made to the
 17 Common School Fund within 30 days of issuance of the
 18 Commission order imposing the penalties.

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

20 (220 ILCS 5/13-517 new)

21 Sec. 13-517. Provision of advanced telecommunications
 22 services.

23 (a) Every Incumbent Local Exchange Carrier
 24 (telecommunications carrier that offers or provides a
 25 noncompetitive telecommunications service) shall offer or
 26 provide advanced telecommunications services to not less than
 27 80% of its customers by January 1, 2005.

28 (b) The Commission is authorized to grant a full or
 29 partial waiver of the requirements of this Section upon
 30 verified petition of any Incumbent Local Exchange Carrier
 31 ("ILEC") which demonstrates that full compliance with the
 32 requirements of this Section would be unduly economically
 33 burdensome or technically infeasible or otherwise impractical

1 in exchanges with low population density. Notice of any such
2 petition must be given to all potentially affected customers.
3 If no potentially affected customer requests the opportunity
4 for a hearing on the waiver petition, the Commission may, in
5 its discretion, allow the waiver request to take affect
6 without hearing. The Commission shall grant such petition to
7 the extent that, and for such duration as, the Commission
8 determines that such waiver:

9 (1) is necessary:

10 (A) to avoid a significant adverse economic
11 impact on users of telecommunications services
12 generally;

13 (B) to avoid imposing a requirement that is
14 unduly economically burdensome;

15 (C) to avoid imposing a requirement that is
16 technically infeasible; or

17 (D) to avoid imposing a requirement that is
18 otherwise impractical to implement in exchanges with
19 low population density; and

20 (2) is consistent with the public interest,
21 convenience, and necessity.

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

24 The Commission may by rule establish standards for granting
25 any waiver of the requirements of this Section. The

26 Commission may, upon complaint or on its own motion, hold a
27 hearing to reconsider its grant of a waiver in whole or in

28 part. In the event that the Commission, following hearing,
29 determines that the affected ILEC no longer meets the

30 requirements of item (2) of this subsection, the Commission
31 shall by order rescind such waiver, in whole or in part. In

32 the event and to the degree the Commission rescinds such
33 waiver, the Commission shall establish an implementation

34 schedule for compliance with the requirements of this

1 Section.

2 (c) As used in this Section, "advanced
3 telecommunications services" means services capable of
4 supporting, in at least one direction, a speed in excess of
5 200 kilobits per second (kbps) to the network demarcation
6 point at the subscriber's premises.

7 (220 ILCS 5/13-518 new)

8 Sec. 13-518. Optional service packages.

9 (a) It is the intent of this Section to provide
10 unlimited local service packages at prices that will result
11 in savings for the average consumer. Each telecommunications
12 carrier that provides competitive and noncompetitive
13 services, and that is subject to an alternative regulation
14 plan pursuant to Section 13-506.1 of this Article, shall
15 provide, in addition to such other services as it offers, the
16 following optional packages of services for a fixed monthly
17 rate, which, along with the terms and conditions thereof, the
18 Commission shall review, pursuant to Article IX of this Act,
19 to determine whether such rates, terms, and conditions are
20 fair, just, and reasonable.

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

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

27 (3) An enhanced flat rate package, which shall
28 consist of residential access service for 2 lines,
29 unlimited local calls, the customer's choice of 2
30 vertical services as defined in this Section, and
31 unlimited local toll service.

32 (b) Nothing in this Section or this Act shall be
33 construed to prohibit any telecommunications carrier subject

1 to this Section from charging customers who elect to take one
2 of the groups of services offered pursuant to this Section,
3 any applicable surcharges, fees, and taxes.

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

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

10 (220 ILCS 5/13-712 new)

11 Sec. 13-712. Basic local exchange service quality;
12 customer credits.

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

17 (b) Definitions:

18 (1) "Alternative telephone service" means, except
19 where technically impracticable, a wireless telephone
20 capable of making local calls, and may also include, but
21 is not limited to, call forwarding, voice mail, or paging
22 services.

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

27 (A) services that employ advanced
28 telecommunications capability as defined in Section
29 706(c)(1) of the federal Telecommunications Act of
30 1996;

31 (B) vertical services;

32 (C) company official lines; and

33 (D) records work only.

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

4 (c) The Commission shall promulgate service quality
5 rules for basic local exchange service, which may include
6 finances, penalties, customer credits, and other enforcement
7 mechanisms. In developing such service quality rules, the
8 Commission shall consider, at a minimum, the carrier's gross
9 annual intrastate revenue; the frequency, duration, and
10 recurrence of the violation; and the relative harm caused to
11 the affected customer or other users of the network. In
12 imposing fines, the Commission shall take into account
13 compensation or credits paid by the telecommunications
14 carrier to its customers pursuant to this Section in
15 compensation for the violation found pursuant to this
16 Section. These rules shall become effective within one year
17 after the effective date of this amendatory Act of the 92nd
18 General Assembly.

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

21 (1) Install basic local exchange service within 5
22 business days after receipt of an order from the customer
23 unless the customer requests an installation date that is
24 beyond 5 business days after placing the order for basic
25 service. If installation of service is requested on or
26 by a date more than 5 business days in the future, the
27 telecommunications carrier shall install service by the
28 date requested. A telecommunications carrier offering
29 basic local exchange service utilizing the network or
30 network elements of another carrier shall install new
31 lines for basic local exchange service within 3 business
32 days after provisioning of the line or lines by the
33 carrier whose network or network elements are being
34 utilized is complete. This subdivision (d)(1) does not

1 apply to the migration of a customer between
2 telecommunications carriers, so long as the customer
3 maintains dial tone.

4 (2) Restore basic local exchange service for a
5 customer within 24 hours of receiving notice that a
6 customer is out of service.

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

10 (e) The rules shall include provisions for customers to
11 be credited by the telecommunications carrier for violations
12 of basic local exchange service quality standards as
13 described in subsection (d). The credits shall be applied on
14 the statement issued to the customer for the next monthly
15 billing cycle following the violation or following the
16 discovery of the violation. The performance levels
17 established in subsection (c) are solely for the purposes of
18 consumer credits and shall not be used as performance levels
19 for the purposes of assessing penalties under Section 13-305.
20 At a minimum, the rules shall include the following:

21 (1) If a carrier fails to repair an out-of-service
22 condition for basic local exchange service within 24
23 hours, the carrier shall provide a credit to the
24 customer. If the service disruption is for 48 hours or
25 less, the credit must be equal to a pro-rata portion of
26 the monthly recurring charges for all local services
27 disrupted. If the service disruption is for more than 48
28 hours, but not more than 72 hours, the credit must be
29 equal to at least 33% of one month's recurring charges
30 for all local services disrupted. If the service
31 disruption is for more than 72 hours, but not more than
32 96 hours, the credit must be equal to at least 67% of one
33 month's recurring charges for all local services
34 disrupted. If the service disruption is for more than 96

1 hours, but not more than 120 hours, the credit must be
2 equal to one month's recurring charges for all local
3 services disrupted. For each day that the service
4 disruption continues beyond the initial 120-hour period,
5 the carrier shall also provide either alternative
6 telephone service or an additional credit of \$20 per day,
7 at the customers option.

8 (2) If a carrier fails to install basic local
9 exchange service within 5 business days after an
10 application for new service has been received by the
11 carrier, or fails to install the service by the
12 customer's requested installation date, if the requested
13 date was more than 5 business days after the date of the
14 application, the carrier shall waive 50% of any
15 installation charges, or where installation is pursuant
16 to the Link Up program, the carrier shall provide a
17 credit of \$25. If a carrier fails to install service
18 within 10 business days after the service application is
19 placed, or fails to install service within 5 business
20 days after the customer's requested installation date, if
21 the requested date was more than 5 business days after
22 the date of the order, the carrier shall waive 100% of
23 the installation charge, or in the absence of an
24 installation charge where installation is provided
25 pursuant to the Link Up program, the carrier shall
26 provide a credit of \$50. For each day that the failure
27 to install service continues beyond the initial 10
28 business days, or beyond 5 business days after the
29 customer's requested installation date, if the requested
30 date was more than 5 business days after the date of the
31 order, the carrier shall also provide either alternative
32 telephone service or an additional credit of \$20 per day,
33 at the customer's option until service is installed.

34 (3) If a carrier fails to keep a scheduled repair

1 or installation appointment when a customer premises
2 visit requires a customer to be present, the carrier
3 shall credit the customer \$50 per missed appointment. A
4 credit required by this subsection does not apply when
5 the carrier provides the customer with 24-hour notice of
6 its inability to keep the appointment.

7 (4) If the violation of a basic local exchange
8 service quality standard is caused by a carrier other
9 than the carrier providing retail service to the
10 customer, the carrier providing service to the customer
11 shall credit the customer as provided in this Section.
12 The carrier causing the violation shall reimburse the
13 carrier providing retail service the amount credited the
14 customer. When applicable, an interconnection agreement
15 shall govern compensation between the carrier causing the
16 violation, in whole or in part, and the retail carrier
17 providing the credit to the customer.

18 (5) When alternative telephone service is
19 appropriate, the customer may select one of the
20 alternative telephone services offered by the carrier.
21 The alternative telephone service shall be provided at no
22 cost to the customer for the provision of local service.

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

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

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

29 (iii) occurs as a result of, or is extended
30 by, an emergency situation as defined in Commission
31 rules;

32 (iv) is extended by the carrier's inability to
33 gain access to the customer's premises due to the
34 customer missing an appointment, provided that the

1 violation is not further extended by the carrier;

2 (v) occurs as a result of a customer request
3 to change the scheduled appointment, provided that
4 the violation is not further extended by the
5 carrier;

6 (vi) occurs as a result of a carrier's right
7 to refuse service to a customer as provided in
8 Commission rules; or

9 (vii) occurs as a result of a lack of
10 facilities where a customer requests service at a
11 geographically remote location, a customer requests
12 service in a geographic area where the carrier is
13 not currently offering service, or there are
14 insufficient facilities to meet the customer's
15 request for service, subject to a carrier's
16 obligation for reasonable facilities planning.

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

21 (f) The rules shall require each telecommunications
22 carrier to provide to the Commission, on a quarterly basis
23 and in a form suitable for posting on the Commission's
24 website, a public report that includes performance data for
25 basic local exchange service quality of service. The
26 performance data shall be disaggregated for each geographic
27 area and each customer class of the State for which the
28 telecommunications carrier internally monitored performance
29 data as of a date 120 days preceding the effective date of
30 this amendatory Act of the 92nd General Assembly. The report
31 shall include, at a minimum, performance data on basic local
32 exchange service installations, lines out of service for more
33 than 24 hours, carrier response to customer calls, trouble
34 reports, and missed repair and installation commitments.

1 (g) The Commission shall establish and implement carrier
2 to carrier wholesale service quality rules and establish
3 remedies to ensure enforcement of the rules.

4 (220 ILCS 5/13-713 new)

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

6 (a) It is the intent of the General Assembly that
7 consumer complaints against telecommunications carriers shall
8 be concluded as expeditiously as possible consistent with the
9 rights of the parties thereto to the due process of law and
10 protection of the public interest.

11 (b) The Commission shall promulgate rules that permit
12 parties to resolve disputes through mediation. A consumer
13 may request mediation upon completion of the Commission's
14 informal complaint process and prior to the initiation of a
15 formal complaint as described in Commission rules.

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

21 (d) The Commission may retain the services of an
22 independent neutral mediator or trained Commission staff to
23 facilitate resolution of the consumer dispute. The mediation
24 process must be completed no later than 45 days after the
25 consumer requests mediation.

26 (e) If the parties reach agreement, the agreement shall
27 be reduced to writing at the conclusion of the mediation.
28 The writing shall contain mutual conditions, payment
29 arrangements, or other terms that resolve the dispute in its
30 entirety. If the parties are unable to reach agreement or
31 after 45 days, whichever occurs first, the consumer may file
32 a formal complaint with the Commission as described in
33 Commission rules.

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

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

8 (220 ILCS 5/13-801) (from Ch. 111 2/3, par. 13-801)

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

10 Sec. 13-801. Incumbent local exchange carrier
11 obligations.

12 (a) This Section provides additional State requirements
13 contemplated by, but not inconsistent with, Section 261(c) of
14 the federal Telecommunications Act of 1996, and not preempted
15 by orders of the Federal Communications Commission. A
16 telecommunications carrier not subject to regulation under an
17 alternative regulation plan pursuant to Section 13-506.1 of
18 this Act shall not be subject to the provisions of this
19 Section, to the extent that this Section imposes requirements
20 or obligations upon the telecommunications carrier that
21 exceed or are more stringent than those obligations imposed
22 by Section 251 of the federal Telecommunications Act of 1996
23 and regulations promulgated thereunder.

24 An incumbent local exchange carrier shall provide a
25 requesting telecommunications carrier with interconnection,
26 collocation, network elements, and access to operations
27 support systems on just, reasonable, and nondiscriminatory
28 rates, terms, and conditions to enable the provision of any
29 and all existing and new telecommunications services within
30 the LATA. The Commission shall require the incumbent local
31 exchange carrier to provide interconnection, collocation, and
32 network elements in any manner technically feasible to the
33 fullest extent possible to implement the maximum development

1 of competitive telecommunications services offerings. As used
2 in this Section, to the extent that interconnection,
3 collocation, or network elements have been deployed for or by
4 the incumbent local exchange carrier or one of its wireline
5 local exchange affiliates in any jurisdiction, it shall be
6 presumed that such is technically feasible in Illinois.

7 (b) Interconnection.

8 (1) An incumbent local exchange carrier shall
9 provide for the facilities and equipment of any
10 requesting telecommunications carrier's interconnection
11 with the incumbent local exchange carrier's network on
12 just, reasonable, and nondiscriminatory rates, terms, and
13 conditions:

14 (A) for the transmission and routing of local
15 exchange, and exchange access telecommunications
16 services;

17 (B) at any technically feasible point within
18 the incumbent local exchange carrier's network;
19 however, the incumbent local exchange carrier may
20 not require the requesting carrier to interconnect
21 at more than one technically feasible point within a
22 LATA; and

23 (C) that is at least equal in quality and
24 functionality to that provided by the incumbent
25 local exchange carrier to itself or to any
26 subsidiary, affiliate, or any other party to which
27 the incumbent local exchange carrier provides
28 interconnection.

29 (2) An incumbent local exchange carrier shall make
30 available to any requesting telecommunications carrier,
31 to the extent technically feasible, those services,
32 facilities, or interconnection agreements or arrangements
33 that the incumbent local exchange carrier or any of its
34 incumbent local exchange subsidiaries or affiliates

1 offers in another state under the terms and conditions,
2 but not the stated rates, negotiated pursuant to Section
3 252 of the federal Telecommunications Act of 1996. Rates
4 shall be established in accordance with the requirements
5 of subsection (g) of this Section. An incumbent local
6 exchange carrier shall also make available to any
7 requesting telecommunications carrier, to the extent
8 technically feasible, and subject to the unbundling
9 provisions of Section 251(d)(2) of the federal
10 Telecommunications Act of 1996, those unbundled network
11 element or interconnection agreements or arrangements
12 that a local exchange carrier affiliate of the incumbent
13 local exchange carrier obtains in another state from the
14 incumbent local exchange carrier in that state, under the
15 terms and conditions, but not the stated rates, obtained
16 through negotiation, or through an arbitration initiated
17 by the affiliate, pursuant to Section 252 of the federal
18 Telecommunications Act of 1996. Rates shall be
19 established in accordance with the requirements of
20 subsection (g) of this Section.

21 (c) Collocation. An incumbent local exchange carrier
22 shall provide for physical or virtual collocation of any type
23 of equipment for interconnection or access to network
24 elements at the premises of the incumbent local exchange
25 carrier on just, reasonable, and nondiscriminatory rates,
26 terms, and conditions. The equipment shall include, but is
27 not limited to, optical transmission equipment, multiplexers,
28 remote switching modules, and cross-connects between the
29 facilities or equipment of other collocated carriers. The
30 equipment shall also include microwave transmission
31 facilities on the exterior and interior of the incumbent
32 local exchange carrier's premises used for interconnection
33 to, or for access to network elements of, the incumbent local
34 exchange carrier or a collocated carrier, unless the

1 incumbent local exchange carrier demonstrates to the
2 Commission that it is not practical due to technical reasons
3 or space limitations. An incumbent local exchange carrier
4 shall allow, and provide for, the most reasonably direct and
5 efficient cross-connects, that are consistent with safety and
6 network reliability standards, between the facilities of
7 collocated carriers. An incumbent local exchange carrier
8 shall also allow, and provide for, cross connects between a
9 noncollocated telecommunications carrier's network elements
10 platform, or a noncollocated telecommunications carrier's
11 transport facilities, and the facilities of any collocated
12 carrier, consistent with safety and network reliability
13 standards.

14 (d) Network elements. The incumbent local exchange
15 carrier shall provide to any requesting telecommunications
16 carrier, for the provision of an existing or a new
17 telecommunications service, nondiscriminatory access to
18 network elements on any unbundled or bundled basis, as
19 requested, at any technically feasible point on just,
20 reasonable, and nondiscriminatory rates, terms, and
21 conditions.

22 (1) An incumbent local exchange carrier shall
23 provide unbundled network elements in a manner that
24 allows requesting telecommunications carriers to combine
25 those network elements to provide a telecommunications
26 service.

27 (2) An incumbent local exchange carrier shall not
28 separate network elements that are currently combined,
29 except at the explicit direction of the requesting
30 carrier.

31 (3) Upon request, an incumbent local exchange
32 carrier shall combine any sequence of unbundled network
33 elements that it ordinarily combines for itself to
34 provide local exchange services to residence and small

1 business customers (customers with 4 or fewer access
2 lines), including but not limited to, unbundled network
3 elements identified in The Draft of the Proposed
4 Ameritech Illinois 271 Amendment (I2A) found in Schedule
5 SJA-4 attached to Exhibit 3.1 filed by Illinois Bell
6 Telephone Company on or about March 28, 2001 with the
7 Illinois Commerce Commission under Illinois Commerce
8 Commission Docket Number 00-0700. The Commission shall
9 determine those network elements the incumbent local
10 exchange carrier ordinarily combines for itself if there
11 is a dispute between the incumbent local exchange carrier
12 and the requesting telecommunications carrier under this
13 subdivision of this Section of this Act.

14 The incumbent local exchange carrier shall be
15 entitled to recover from the requesting
16 telecommunications carrier any just and reasonable
17 special construction costs incurred in combining such
18 unbundled network elements (i) if such costs are not
19 already included in the established price of providing
20 the network elements, (ii) if the incumbent local
21 exchange carrier charges such costs to its retail
22 telecommunications end users, and (iii) if fully
23 disclosed in advance to the requesting telecommunications
24 carrier. The Commission shall determine whether the
25 incumbent local exchange carrier is entitled to any
26 special construction costs if there is a dispute between
27 the incumbent local exchange carrier and the requesting
28 telecommunications carrier under this subdivision of this
29 Section of this Act.

30 (4) A telecommunications carrier may use a network
31 elements platform consisting solely of combined network
32 elements of the incumbent local exchange carrier to
33 provide end to end telecommunications service for the
34 provision of existing and new local exchange,

1 interexchange that includes local, local toll, and
2 intraLATA toll, and exchange access telecommunications
3 services within the LATA to its end users without the
4 requesting telecommunications carrier's provision or use
5 of any other facilities or functionalities.

6 (5) The Commission shall establish maximum time
7 periods for the incumbent local exchange carrier's
8 provision of network elements. The maximum time period
9 shall be no longer than the time period for the incumbent
10 local exchange carrier's provision of comparable retail
11 telecommunications services utilizing those network
12 elements. The Commission may establish a maximum time
13 period for a particular network element that is shorter
14 than for a comparable retail telecommunications service
15 offered by the incumbent local exchange carrier if a
16 requesting telecommunications carrier establishes that
17 it shall perform other functions or activities after
18 receipt of the particular network element to provide
19 telecommunications services to end users. The burden of
20 proof for establishing a maximum time period for a
21 particular network element that is shorter than for a
22 comparable retail telecommunications service offered by
23 the incumbent local exchange carrier shall be on the
24 requesting telecommunications carrier. Notwithstanding
25 any other provision of this Article, unless and until the
26 Commission establishes by rule or order a different
27 specific maximum time interval, the maximum time
28 intervals shall not exceed 5 business days for the
29 provision of unbundled loops, both digital and analog, 10
30 business days for the conditioning of unbundled loops or
31 for existing combinations of network elements for an end
32 user that has existing local exchange telecommunications
33 service, and one business day for the provision of the
34 high frequency portion of the loop (line-sharing) for at

1 least 95% of the requests of each requesting
2 telecommunications carrier for each month.

3 In measuring the incumbent local exchange carrier's
4 actual performance, the Commission shall ensure that
5 occurrences beyond the control of the incumbent local
6 exchange carrier that adversely affect the incumbent
7 local exchange carrier's performance are excluded when
8 determining actual performance levels. Such occurrences
9 shall be determined by the Commission, but at a minimum
10 must include work stoppage or other labor actions and
11 acts of war. Exclusions shall also be made for
12 performance that is governed by agreements approved by
13 the Commission and containing timeframes for the same or
14 similar measures or for when a requesting
15 telecommunications carrier requests a longer time
16 interval.

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

1 incumbent local exchange carrier shall provide the
2 requested network elements platform without any
3 disruption to the end user's services.

4 Absent a contrary agreement between the
5 telecommunications carriers entered into after the
6 effective date of this amendatory Act of the 92nd General
7 Assembly, as of 12:01 a.m. on the third business day
8 after placing the order for a network elements platform,
9 the requesting telecommunications carrier shall be the
10 presubscribed primary local exchange carrier for that end
11 user line and shall be entitled to receive, or to direct
12 the disposition of, all revenues for all services
13 utilizing the network elements in the platform, unless it
14 is established that the end user of the existing local
15 exchange service did not authorize the requesting
16 telecommunications carrier to make the request.

17 (e) Operations support systems. The Commission shall
18 establish minimum standards with just, reasonable, and
19 nondiscriminatory rates, terms, and conditions for the
20 preordering, ordering, provisioning, maintenance and repair,
21 and billing functions of the incumbent local exchange
22 carrier's operations support systems provided to other
23 telecommunications carriers.

24 (f) Resale. An incumbent local exchange carrier shall
25 offer all retail telecommunications services, that the
26 incumbent local exchange carrier provides at retail to
27 subscribers who are not telecommunications carriers, within
28 the LATA, together with each applicable optional feature or
29 functionality, subject to resale at wholesale rates without
30 imposing any unreasonable or discriminatory conditions or
31 limitations. Wholesale rates shall be based on the retail
32 rates charged to end users for the telecommunications service
33 requested, excluding the portion thereof attributable to any
34 marketing, billing, collection, and other costs avoided by

1 the local exchange carrier. The Commission may determine
2 under Article IX of this Act that certain noncompetitive
3 services, together with each applicable optional feature or
4 functionality, that are offered to residence customers under
5 different rates, charges, terms, or conditions than to other
6 customers should not be subject to resale under the rates,
7 charges, terms, or conditions available only to residence
8 customers.

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

24 (h) Rural exemption. This Section does not apply to
25 certain rural telephone companies as described in 47 U.S.C.
26 251(f).

27 (i) Schedule of rates. A telecommunications carrier may
28 request the incumbent local exchange carrier to provide a
29 schedule of rates listing each of the rate elements of the
30 incumbent local exchange carrier that pertains to a proposed
31 order identified by the requesting telecommunications carrier
32 for any of the matters covered in this Section. The
33 incumbent local exchange carrier shall deliver the requested
34 schedule of rates to the requesting telecommunications

1 carrier within 2 business days for 95% of the requests for
2 each requesting carrier.

3 (j) Special access circuits. Other than as provided in
4 subsection (d)(4) of this Section for the network elements
5 platform described therein, nothing in this amendatory Act of
6 the 92nd General Assembly is intended to require the
7 substitution of switched or special access services by or
8 with a combination of network elements nor address the
9 Commission's jurisdiction or authority in this area.

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

13 ~~The Commission shall prepare and issue an annual report on~~
14 ~~the status of the telecommunications industry and Illinois~~
15 ~~regulation thereof on January 31 of each year beginning in~~
16 ~~1986. Such report shall include:~~

17 ~~(a) A review of regulatory decisions and actions~~
18 ~~from the preceding year and a description of pending~~
19 ~~cases involving significant telecommunications carriers~~
20 ~~or issues;~~

21 ~~(b) a description of the telecommunications~~
22 ~~industry and changes or trends therein, including the~~
23 ~~number, type and size of firms offering~~
24 ~~telecommunications services, whether or not such firms~~
25 ~~are subject to State regulation, telecommunications~~
26 ~~technologies in place and under development, variations~~
27 ~~in the geographic availability of services and in prices~~
28 ~~for services, and penetration levels of subscriber access~~
29 ~~to local exchange service in each exchange and trends~~
30 ~~related thereto;~~

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

33 ~~(d) the effects, and likely effects of Illinois~~
34 ~~regulatory policies and practices, including those~~

described---in---this---Article,---on---telecommunications carriers,---services-and-customers;

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

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

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

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

(220 ILCS 5/13-902)

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

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

(a) Definitions; scope.

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

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

(3) "Authorized carrier" means any telecommunications carrier that submits a change, on behalf of a subscriber, in the subscriber's selection of a provider of telecommunications service with the

1 subscriber's authorization verified in accordance with
2 the procedures specified in this Section.

3 (4) "Unauthorized carrier" means any
4 telecommunications carrier that submits a change, on
5 behalf of a subscriber, in the subscriber's selection of
6 a provider of telecommunications service but fails to
7 obtain the subscriber's authorization verified in
8 accordance with the procedures specified in this Section.

9 (5) "Unauthorized change" means a change in a
10 subscriber's selection of a provider of
11 telecommunications service that was made without
12 authorization verified in accordance with the
13 verification procedures specified in this Section.

14 (6) "Subscriber" means:

15 (A) the party identified in the account
16 records of a common carrier as responsible for
17 payment of the telephone bill;

18 (B) any adult person authorized by such party
19 to change telecommunications services or to charge
20 services to the account; or

21 (C) any person contractually or otherwise
22 lawfully authorized to represent such party.

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

25 (b) Authorization from the subscriber. "Authorization"
26 means an express, affirmative act by a subscriber agreeing to
27 the change in the subscriber's telecommunications carrier to
28 another carrier. A subscriber's telecommunications service
29 shall be provided by the telecommunications carrier selected
30 by the subscriber.

31 (c) Authorization and verification of orders for
32 telecommunications service.

33 (1) No telecommunications carrier shall submit or
34 execute a change on behalf of a subscriber in the

1 subscriber's selection of a provider of
2 telecommunications service except in accordance with the
3 procedures prescribed in this subsection.

4 (2) No submitting carrier shall submit a change on
5 the behalf of a subscriber in the subscriber's selection
6 of a provider of telecommunications service prior to
7 obtaining:

8 (A) authorization from the subscriber; and

9 (B) verification of that authorization in
10 accordance with the procedures prescribed in this
11 Section.

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

15 (3) An executing carrier shall not verify the
16 submission of a change in a subscriber's selection of a
17 provider of telecommunications service received from a
18 submitting carrier. For an executing carrier, compliance
19 with the procedures described in this Section shall be
20 defined as prompt execution, without any unreasonable
21 delay, of changes that have been verified by a submitting
22 carrier.

23 (4) Commercial mobile radio services (CMRS)
24 providers shall be excluded from the verification
25 requirements of this Section as long as they are not
26 required to provide equal access to common carriers for
27 the provision of telephone toll services, in accordance
28 with 47 U.S.C. 332(c)(8).

29 (5) Where a telecommunications carrier is selling
30 more than one type of telecommunications service (e.g.,
31 local exchange, intraLATA/intrastate toll,
32 interLATA/interstate toll, and international toll), that
33 carrier must obtain separate authorization from the
34 subscriber for each service sold, although the

1 authorizations may be made within the same solicitation.
2 Each authorization must be verified separately from any
3 other authorizations obtained in the same solicitation.
4 Each authorization must be verified in accordance with
5 the verification procedures prescribed in this Section.

6 (6) No telecommunications carrier shall submit a
7 preferred carrier change order unless and until the order
8 has been confirmed in accordance with one of the
9 following procedures:

10 (A) The telecommunications carrier has
11 obtained the subscriber's written or electronically
12 signed authorization in a form that meets the
13 requirements of subsection (d).

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

30 (C) An appropriately qualified independent
31 third party has obtained, in accordance with the
32 procedures set forth in paragraphs (7) through (10)
33 of this subsection, the subscriber's oral
34 authorization to submit the preferred carrier change

1 order that confirms and includes appropriate
2 verification data. The independent third party must
3 not be owned, managed, controlled, or directed by
4 the carrier or the carrier's marketing agent; must
5 not have any financial incentive to confirm
6 preferred carrier change orders for the carrier or
7 the carrier's marketing agent; and must operate in a
8 location physically separate from the carrier or the
9 carrier's marketing agent.

10 (7) Methods of third party verification. Automated
11 third party verification systems and three-way conference
12 calls may be used for verification purposes so long as
13 the requirements of paragraphs (8) through (10) of this
14 subsection are satisfied.

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

20 (9) Requirements for content and format of third
21 party verification. All third party verification methods
22 shall elicit, at a minimum, the identity of the
23 subscriber; confirmation that the person on the call is
24 authorized to make the carrier change; confirmation that
25 the person on the call wants to make the carrier change;
26 the names of the carriers affected by the change; the
27 telephone numbers to be switched; and the types of
28 service involved. Third party verifiers may not market
29 the carrier's services by providing additional
30 information, including information regarding preferred
31 carrier freeze procedures.

32 (10) Other requirements for third party
33 verification. All third party verifications shall be
34 conducted in the same language that was used in the

1 underlying sales transaction and shall be recorded in
2 their entirety. In accordance with the procedures set
3 forth in paragraph (2)(B) of this subsection, submitting
4 carriers shall maintain and preserve audio records of
5 verification of subscriber authorization for a minimum
6 period of 2 years after obtaining such verification.
7 Automated systems must provide consumers with an option
8 to speak with a live person at any time during the call.

9 (11) Telecommunications carriers must provide
10 subscribers the option of using one of the authorization
11 and verification procedures specified in paragraph (6) of
12 this subsection in addition to an electronically signed
13 authorization and verification procedure under paragraph
14 (6)(A) of this subsection.

15 (d) Letter of agency form and content.

16 (1) A telecommunications carrier may use a written
17 or electronically signed letter of agency to obtain
18 authorization or verification, or both, of a subscriber's
19 request to change his or her preferred carrier selection.
20 A letter of agency that does not conform with this
21 Section is invalid for purposes of this Section.

22 (2) The letter of agency shall be a separate
23 document (or an easily separable document) or located on
24 a separate screen or webpage containing only the
25 authorizing language described in paragraph (5) of this
26 subsection having the sole purpose of authorizing a
27 telecommunications carrier to initiate a preferred
28 carrier change. The letter of agency must be signed and
29 dated by the subscriber to the telephone line or lines
30 requesting the preferred carrier change.

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

34 (4) Notwithstanding paragraphs (2) and (3) of this

1 subsection, the letter of agency may be combined with
2 checks that contain only the required letter of agency
3 language as prescribed in paragraph (5) of this
4 subsection and the necessary information to make the
5 check a negotiable instrument. The letter of agency check
6 shall not contain any promotional language or material.
7 The letter of agency check shall contain in easily
8 readable, bold-face type on the front of the check, a
9 notice that the subscriber is authorizing a preferred
10 carrier change by signing the check. The letter of agency
11 language shall be placed near the signature line on the
12 back of the check.

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

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

20 (B) The decision to change the preferred
21 carrier from the current telecommunications carrier
22 to the soliciting telecommunications carrier;

23 (C) That the subscriber designates (insert the
24 name of the submitting carrier) to act as the
25 subscriber's agent for the preferred carrier change;

26 (D) That the subscriber understands that only
27 one telecommunications carrier may be designated as
28 the subscriber's interstate or interLATA preferred
29 interexchange carrier for any one telephone number.
30 To the extent that a jurisdiction allows the
31 selection of additional preferred carriers (e.g.,
32 local exchange, intraLATA/intrastate toll,
33 interLATA/interstate toll, or international
34 interexchange) the letter of agency must contain

1 separate statements regarding those choices,
2 although a separate letter of agency for each choice
3 is not necessary; and

4 (E) That the subscriber may consult with the
5 carrier as to whether a fee will apply to the change
6 in the subscriber's preferred carrier.

7 (6) Any carrier designated in a letter of agency as
8 a preferred carrier must be the carrier directly setting
9 the rates for the subscriber.

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

13 (8) If any portion of a letter of agency is
14 translated into another language then all portions of the
15 letter of agency must be translated into that language.
16 Every letter of agency must be translated into the same
17 language as any promotional materials, oral descriptions,
18 or instructions provided with the letter of agency.

19 (9) Letters of agency submitted with an
20 electronically signed authorization must include the
21 consumer disclosures required by Section 101(c) of the
22 Electronic Signatures in Global and National Commerce
23 Act.

24 (10) A telecommunications carrier shall submit a
25 preferred carrier change order on behalf of a subscriber
26 within no more than 60 days after obtaining a written or
27 electronically signed letter of agency.

28 (11) If a telecommunications carrier uses a letter
29 of agency, the carrier shall send a letter to the
30 subscriber using first class mail, postage prepaid, no
31 later than 10 days after the telecommunications carrier
32 submitting the change in the subscriber's
33 telecommunications carrier is on notice that the change
34 has occurred. The letter must inform the subscriber of

1 the details of the telecommunications carrier change and
2 provide the subscriber with a toll free number to call
3 should the subscriber wish to cancel the change.

4 (e) A switch in a subscriber's selection of a provider
5 of telecommunications service that complies with the rules
6 promulgated by the Federal Communications Commission and any
7 amendments thereto shall be deemed to be in compliance with
8 the provisions of this Section.

9 (f) The Commission shall promulgate any rules necessary
10 to administer this Section. The rules promulgated under this
11 Section shall comport with the rules, if any, promulgated by
12 the Attorney General pursuant to the Consumer Fraud and
13 Deceptive Business Practices Act and with any rules
14 promulgated by the Federal Communications Commission.

15 (g) Complaints may be filed with the Commission under
16 this Section by a subscriber whose telecommunications service
17 has been provided by an unauthorized telecommunications
18 carrier as a result of an unreasonable delay, by a subscriber
19 whose telecommunications carrier has been changed to another
20 telecommunications carrier in a manner not in compliance with
21 this Section, by a subscriber's authorized
22 telecommunications carrier that has been removed as a
23 subscriber's telecommunications carrier in a manner not in
24 compliance with this Section, by a subscriber's authorized
25 submitting carrier whose change order was delayed
26 unreasonably, or by the Commission on its own motion. Upon
27 filing of the complaint, the parties may mutually agree to
28 submit the complaint to the Commission's established
29 mediation process. Remedies in the mediation process may
30 include, but shall not be limited to, the remedies set forth
31 in this subsection. In its discretion, the Commission may
32 deny the availability of the mediation process and submit the
33 complaint to hearings. If the complaint is not submitted to
34 mediation or if no agreement is reached during the mediation

1 process, hearings shall be held on the complaint. If, after
2 notice and hearing, the Commission finds that a
3 telecommunications carrier has violated this Section or a
4 rule promulgated under this Section, the Commission may in
5 its discretion do any one or more of the following:

6 (1) Require the violating telecommunications
7 carrier to refund to the subscriber all fees and charges
8 collected from the subscriber for services up to the time
9 the subscriber receives written notice of the fact that
10 the violating carrier is providing telecommunications
11 service to the subscriber, including notice on the
12 subscriber's bill. For unreasonable delays wherein
13 telecommunications service is provided by an unauthorized
14 carrier, the Commission may require the violating carrier
15 to refund to the subscriber all fees and charges
16 collected from the subscriber during the unreasonable
17 delay. The Commission may order the remedial action
18 outlined in this subsection only to the extent that the
19 same remedial action is allowed pursuant to rules or
20 regulations promulgated by the Federal Communications
21 Commission.

22 (2) Require the violating telecommunications
23 carrier to refund to the subscriber charges collected in
24 excess of those that would have been charged by the
25 subscriber's authorized telecommunications carrier.

26 (3) Require the violating telecommunications
27 carrier to pay to the subscriber's authorized
28 telecommunications carrier the amount the authorized
29 telecommunications carrier would have collected for the
30 telecommunications service. The Commission is authorized
31 to reduce this payment by any amount already paid by the
32 violating telecommunications carrier to the subscriber's
33 authorized telecommunications carrier for those
34 telecommunications services.

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

5 (5) Issue a cease and desist order.

6 (6) For a pattern of violation of this Section or
 7 for intentionally violating a cease and desist order,
 8 revoke the violating telecommunications carrier's
 9 certificate of service authority. Rules-for--verification
 10 of-a-subscriber's-change-in-telecommunications-carrier-or
 11 addition-to-a-subscriber's-service.

12 (a)--As--used--in--this--Section,--"subscriber"--means--a
 13 telecommunications--carrier's-retail-business-customer-served
 14 by-not-more-than-20-lines-or-a-retail--residential--customer,
 15 and--"telecommunications--carrier"--has--the-meaning-given-in
 16 Section-13-202-of--the--Public--Utilities--Act,--except--that
 17 "telecommunications--carrier"--does-not-include-a-provider-of
 18 commercial-mobile-radio-services-(as--defined--by--47--U.S.C.
 19 332(d)(1)).

20 (b)--A-subscriber's-presubscription-of-a-primary-exchange
 21 or--interexchange----telecommunications--carrier--may-not-be
 22 switched-to-another-telecommunications--carrier--without--the
 23 subscriber's-authorization.

24 (c)--A--telecommunications-carrier-shall-not-effectuate-a
 25 change--to--a--subscriber's--telecommunications--services--by
 26 providing--an--additional--telecommunications--service---that
 27 results--in--an--additional--monthly-charge-to-the-subscriber
 28 (herein-referred--to--as--an--"additional--telecommunications
 29 service")---without--following--the--subscriber--notification
 30 procedures--set--forth--in--this--Section,---An---"additional
 31 telecommunications-service"--does-not-include-making-available
 32 any--additional-telecommunications-services-on-a-subscriber's
 33 line-when-the-subscriber-activates-and-pays-for-the--services
 34 on-a-per-use-basis.

1 (d) -- It is the responsibility of the company or carrier
 2 requesting a change in a subscriber's telecommunications
 3 carrier to obtain the subscriber's authorization for the
 4 change whenever the company or carrier acts as a subscriber's
 5 agent with respect to the change.

6 (e) -- A company or telecommunications carrier submitting a
 7 change in a subscriber's primary exchange or interexchange
 8 telecommunications carrier as described in subsection (d)
 9 shall be solely responsible for providing written notice of
 10 the change to the subscriber in accordance with this Section,
 11 or for obtaining verification of the subscriber's assent to
 12 the change in accordance with this Section. In addition, a
 13 telecommunications carrier that provides any additional
 14 telecommunications service to a subscriber shall be solely
 15 responsible for providing written notice of the additional
 16 telecommunications service to the subscriber in accordance
 17 with this Section, or for obtaining verification of the
 18 subscriber's assent to the additional telecommunications
 19 service in accordance with this Section.

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

23 (A) -- A letter to the subscriber must be mailed
 24 using first class mail, postage prepaid, no later
 25 than 10 days after the telecommunications carrier
 26 submitting the change in the subscriber's primary
 27 exchange or interexchange telecommunications carrier
 28 is on notice that the change has occurred or no
 29 later than 10 days after initiation of an additional
 30 telecommunications service has occurred.

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

34 (C) -- The letter must be printed with 10-point

1 or-larger-type-and-contain-clear-and-plain--language
2 that--confirms--the--details--of--a--change--in--the
3 presubscribed--telecommunications--carrier-or-of-the
4 addition--of--the--telecommunications--service---and
5 provides--the--subscriber-with-a-toll-free-number-to
6 call-should-the-subscriber-wish-to-cancel-the-change
7 or-make-additional-changes.

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

11 (A)--Verification--shall--be--obtained--by---an
12 independent-third-party-that:

13 (i)--operates--from--a-facility-physically
14 separate-from-that--of--the--telecommunications
15 carrier---or--company--seeking--the--change--or
16 addition-of-service;

17 (ii)--is--not---directly---or---indirectly
18 managed,--controlled,--directed,--or--owned-wholly
19 or-in-part-by-the-telecommunications-carrier-or
20 company--seeking--the--change--or--addition--of
21 telecommunications-services;

22 (iii)--does--not--derive--commissions---or
23 compensation--based--upon--the-number-of-sales,
24 changes,--or--additions-confirmed;-and

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

27 (B)--The--third-party--verification-agent-shall
28 state--to--the--subscriber,--and--shall--obtain--the
29 subscriber's--acknowledgement--to,---the---following
30 disclosures:

31 (i)--the-consumer's-name,--address,--and-the
32 telephone--numbers--of-all-telephone-lines-that
33 will--be--changed--or---to---which---additional
34 telecommunications-services-will-be-added;

1 (ii) the names of the telecommunications
2 carrier or company that is replacing the
3 previous presubscribed telecommunications
4 carrier or adding a telecommunications service
5 to the subscriber's account and, where
6 applicable, the name of the carriers being
7 replaced;

8 (iii) in cases where verification is
9 sought for the subscriber's presubscribed
10 telecommunications carrier, that for each line
11 the subscriber can designate only one
12 presubscribed telecommunications carrier to
13 handle each of the subscriber's local, long
14 distance, or local toll service depending upon
15 which presubscribed telecommunications service
16 or services are being verified; and

17 (iv) the fact that a fee may be imposed
18 on the subscriber for the change of primary
19 exchange or interexchange telecommunications
20 carriers or that a monthly recurring fee may be
21 charged for the additional service, if that is
22 the case.

23 (C) The third party verification agent shall
24 obtain verification no later than 3 days after the
25 carrier submitting a change in the subscriber's
26 primary exchange or interexchange telecommunications
27 carrier is on notice that the change has occurred or
28 no later than 3 days after initiation of an
29 additional telecommunications service has occurred.

30 (D) The telecommunications company or carrier
31 seeking to implement the change in service or
32 additional service may connect the subscriber to the
33 verification agent, provided that all of the
34 requirements for verification by a third party as

1 set forth in this Section are otherwise complied
2 with fully.

3 (3) The verification or notice requirements
4 described in this subsection shall apply to all changes
5 to a subscriber's presubscription of a primary exchange
6 or interexchange telecommunications carrier, whether the
7 change was initiated through an inbound call initiated by
8 the customer or outbound telemarketing. Where a
9 subscriber's telecommunications services are changed by
10 the provision of an additional telecommunications
11 service, the verification or notice requirements
12 described in this subsection shall apply if the change
13 was initiated through outbound telemarketing. Where a
14 subscriber's telecommunications services are changed by
15 the provision of an additional telecommunications service
16 and the change was initiated through inbound
17 telemarketing, the telecommunications carrier shall
18 comply with all rules or regulations promulgated by the
19 Federal Communications Commission.

20 (4) Verifications conducted or obtained in a manner
21 not in compliance with this Section or notice given in a
22 manner not in compliance with this Section shall be void
23 and without effect.

24 (f) The Commission shall promulgate any rules necessary
25 to ensure that the primary exchange or interexchange
26 telecommunications carrier of a subscriber is not changed to
27 another telecommunications carrier or that an additional
28 telecommunications service is not added without the
29 subscriber's authorization. The rules promulgated under this
30 Section shall comport with the rules, if any, promulgated by
31 the Attorney General pursuant to the Consumer Fraud and
32 Deceptive Business Practices Act and with any rules
33 promulgated by the Federal Communications Commission.

34 (g) Complaints may be filed with the Commission under

1 this--Section--by--a--subscriber--whose--primary--exchange--or
 2 interexchange---carrier---has---been---changed---to---another
 3 telecommunications--carrier--without--authorization--or--who--has
 4 been--provided--an--additional--telecommunications--service--not
 5 ordered--by--the--subscriber,--by--a--telecommunications--carrier
 6 that--has--been--removed--as--a--subscriber's--primary--exchange--or
 7 interexchange-----telecommunications-----carrier-----without
 8 authorization,--or--by--the--Commission--on--its--own--motion.---Upon
 9 filing--of--the--complaint,--the--parties--may--mutually--agree--to
 10 submit--the--complaint--to---the---Commission's---established
 11 mediation--process.---Remedies---in--the--mediation--process--may
 12 include,--but--shall--not--be--limited--to,--the--remedies--set--forth
 13 in--paragraphs--(1)--through--(5)--of--this--subsection.---In--its
 14 discretion,--the--Commission--may--deny--the--availability--of--the
 15 mediation--process--and--submit--the--complaint--to--hearings.---If
 16 the--complaint--is--not--submitted--to--mediation--or--if--no
 17 agreement--is--reached--during--the--mediation--process,--hearings
 18 shall--be--held--on--the--complaint--pursuant--to--Article--10--of--this
 19 Act.---If--after--notice--and--hearing,--the--Commission--finds--that
 20 a--telecommunications--carrier--has--violated--this--Section--or--a
 21 rule--promulgated--under--this--Section,--the--Commission--may--in
 22 its--discretion--order--any--one--or--more--of--the--following:

23 (1)--In--case--of--an--unauthorized--change---in---a
 24 subscriber's---primary---exchange---or---interexchange
 25 telecommunications---carrier,--require---the---violating
 26 telecommunications--carrier--to--refund--to--the--subscriber
 27 all--fees--and--charges--collected--from--the--subscriber--for
 28 services--up--to--the--time--the--subscriber--receives--written
 29 notice---of--the--fact--that--the--violating--carrier--is
 30 providing--telecommunications--service--to--the--subscriber.
 31 For--a--carrier--that--elects--to--provide--written--notice--of--a
 32 change---in---a---subscriber's---primary---exchange---or
 33 interexchange--carrier,--notice--consistent--with--paragraph
 34 (1)--of--subsection--(e)--shall--be--deemed--to--be--receipt--of

1 notice--by-the-subscriber-for-purposes-of-this-paragraph.
2 For-a-carrier-that-elects-to-obtain-verification-of-a
3 change---in---a---subscriber's---primary---exchange---or
4 interexchange-carrier-consistent-with-paragraph--(2)--of
5 subsection---(e)---of--this--Section,--either--the--first
6 correspondence--from--the--carrier--that---notifies---the
7 customer-of-the-change-or-the-subscriber's-first-bill-for
8 services,--whichever--is-mailed-first,--shall-be-deemed-to
9 be-receipt-of-notice-by-the-subscriber--for--purposes--of
10 this--paragraph.---The--Commission-may-order-the-remedial
11 action-outlined-in-this-subsection--only--to--the--extent
12 that--the--same--remedial--action--is-allowed-pursuant-to
13 rules--or--regulations--promulgated---by---the---Federal
14 Communications-Commission.

15 (2)--In--case--of--an--unauthorized--change--in--the
16 primary---exchange--or--interexchange--telecommunications
17 carrier,--require-the-violating-telecommunications-carrier
18 to-refund-to-the-subscriber-charges-collected--in--excess
19 of-those-that-would-have-been-charged-by-the-subscriber's
20 chosen-telecommunications-carrier.

21 (3)--In--case--of--an--unauthorized--change--in--the
22 primary---exchange--or--interexchange--telecommunications
23 carrier,--require-the-violating-telecommunications-carrier
24 to-pay--to--the--subscriber's--chosen--telecommunications
25 carrier--the-amount-the-chosen-telecommunications-carrier
26 would-have-collected-for-the-telecommunications--service.
27 The--Commission--is--authorized-to-reduce-this-payment-by
28 any---amount---already---paid---by---the---violating
29 telecommunications--carrier--to--the--subscriber's-chosen
30 telecommunications-carrier-for--those--telecommunications
31 services.

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

1 of this Section.

2 (5) In the case of an unauthorized additional
3 telecommunications service, require the violating carrier
4 to refund or cancel all charges for telecommunications
5 services or products provided without a subscriber's
6 authorization.

7 (6) Issue a cease and desist order.

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

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

13 (220 ILCS 5/13-903 new)

14 Sec. 13-903. Authorization, verification or
15 notification, and dispute resolution for covered product and
16 service charges on the telephone bill.

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

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

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

27 (b) Applicability of Section. This Section does not
28 apply to:

29 (1) changes in a subscriber's local exchange
30 telecommunications service or interexchange
31 telecommunications service;

32 (2) message telecommunications charges that are
33 initiated by dialing 1+, 0+, 0-, 1010XXX, or collect

1 calls and charges for video services if the service
2 provider has the necessary call detail record to
3 establish the billing for the call or service; and

4 (3) telecommunications services available on a
5 subscriber's line when the subscriber activates and pays
6 for the services on a per use basis.

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

11 (1) Inform the subscriber. The telecommunications
12 carrier offering the product or service must thoroughly
13 inform the subscriber of the product or service being
14 offered, including all associated charges, and explicitly
15 inform the subscriber that the associated charges for the
16 product or service will appear on the subscriber's
17 telephone bill.

18 (2) Obtain subscriber authorization. The
19 subscriber must have clearly and explicitly consented to
20 obtaining the product or service offered and to having
21 the associated charges appear on the subscriber's
22 telephone bill. The consent must be verified by the
23 service provider in accordance with subsection (d) of
24 this Section. A record of the consent must be maintained
25 by the telecommunications carrier offering the product or
26 service for at least 24 months immediately after the
27 consent and verification were obtained.

28 (d) Verification or notification. Except in
29 subscriber-initiated transactions with a certificated
30 telecommunications carrier for which the telecommunications
31 carrier has the appropriate documentation, the
32 telecommunications carrier, after obtaining the subscriber's
33 authorization in the required manner, shall either verify the
34 authorization or notify the subscriber as follows:

1 (1) Independent third-party verification:

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

4 (i) operates from a facility physically
5 separate from that of the telecommunications
6 carrier;

7 (ii) is not directly or indirectly
8 managed, controlled, directed, or owned wholly
9 or in part by the telecommunications carrier or
10 the carrier's marketing agent; and

11 (iii) does not derive commissions or
12 compensation based upon the number of sales
13 confirmed.

14 (B) The third-party verification agent shall
15 state, and shall obtain the subscriber's
16 acknowledgment of, the following disclosures:

17 (i) the subscriber's name, address, and
18 the telephone numbers of all telephone lines
19 that will be charged for the product or service
20 of the telecommunications carrier;

21 (ii) that the person speaking to the
22 third party verification agent is in fact the
23 subscriber;

24 (iii) that the subscriber wishes to
25 purchase the product or service of the
26 telecommunications carrier and is agreeing to
27 do so;

28 (iv) that the subscriber understands that
29 the charges for the product or service of the
30 telecommunications carrier will appear on the
31 subscriber's telephone bill; and

32 (v) the name and customer service
33 telephone number of the telecommunications
34 carrier.

1 (C) The telecommunications carrier shall
2 retain, electronically or otherwise, proof of the
3 verification of sales for a minimum of 24 months.

4 (2) Notification. Written notification shall be
5 provided as follows:

6 (A) the telecommunications carrier shall mail
7 a letter to the subscriber using first class mail,
8 postage prepaid, no later than 10 days after
9 initiation of the product or service;

10 (B) the letter shall be a separate document
11 sent for the sole purpose of describing the product
12 or service of the telecommunications carrier;

13 (C) the letter shall be printed with 10-point
14 or larger type and clearly and conspicuously
15 disclose the material terms and conditions of the
16 offer of the telecommunications carrier, as
17 described in paragraph (1) of subsection (c);

18 (D) the letter shall contain a toll-free
19 telephone number the subscriber can call to cancel
20 the product or service;

21 (E) the telecommunications carrier shall
22 retain, electronically or otherwise, proof of
23 written notification for a minimum of 24 months; and

24 (F) Written notification can be provided via
25 electronic mail if consumers are given the
26 disclosures required by Section 101(c) of the
27 Electronic Signatures In Global And National
28 Commerce Act.

29 (e) Unauthorized charges.

30 (1) Responsibilities of the billing
31 telecommunications carrier for unauthorized charges. If
32 a subscriber's telephone bill is charged for any product
33 or service without proper subscriber authorization and
34 verification or notification of authorization in

1 compliance with this Section, the telecommunications
2 carrier that billed the subscriber, on its knowledge or
3 notification of any unauthorized charge, shall promptly,
4 but not later than 45 days after the date of the
5 knowledge or notification of an unauthorized charge:

6 (A) notify the product or service provider to
7 immediately cease charging the subscriber for the
8 unauthorized product or service;

9 (B) remove the unauthorized charge from the
10 subscriber's bill; and

11 (C) refund or credit to the subscriber all
12 money that the subscriber has paid for any
13 unauthorized charge.

14 (f) The Commission shall promulgate any rules necessary
15 to ensure that subscribers are not billed on the telephone
16 bill for products or services in a manner not in compliance
17 with this Section. The rules promulgated under this Section
18 shall comport with the rules, if any, promulgated by the
19 Attorney General pursuant to the Consumer Fraud and Deceptive
20 Business Practices Act and with any rules promulgated by the
21 Federal Communications Commission or Federal Trade
22 Commission.

23 (g) Complaints may be filed with the Commission under
24 this Section by a subscriber who has been billed on the
25 telephone bill for products or services not in compliance
26 with this Section or by the Commission on its own motion.
27 Upon filing of the complaint, the parties may mutually agree
28 to submit the complaint to the Commission's established
29 mediation process. Remedies in the mediation process may
30 include, but shall not be limited to, the remedies set forth
31 in paragraphs (1) through (4) of this subsection. In its
32 discretion, the Commission may deny the availability of the
33 mediation process and submit the complaint to hearings. If
34 the complaint is not submitted to mediation or if no

1 agreement is reached during the mediation process, hearings
 2 shall be held on the complaint pursuant to Article 10 of this
 3 Act. If after notice and hearing, the Commission finds that
 4 a telecommunications carrier has violated this Section or a
 5 rule promulgated under this Section, the Commission may in
 6 its discretion order any one or more of the following:

7 (1) Require the violating telecommunications
 8 carrier to pay a fine of up to \$1,000 into the Public
 9 Utility Fund for each repeated and intentional violation
 10 of this Section.

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

14 (3) Issue a cease and desist order.

15 (4) For a pattern of violation of this Section or
 16 for intentionally violating a cease and desist order,
 17 revoke the violating telecommunications carrier's
 18 certificate of service authority.

19 (220 ILCS 5/13-1200 new)

20 Sec. 13-1200. Repealer. This Article is repealed July
 21 1, 2005.

22 (220 ILCS 5/13-803 rep.)

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

25 Section 30. The Consumer Fraud and Deceptive Business
 26 Practices Act is amended by changing Section 2DD as
 27 follows:

28 (815 ILCS 505/2DD)

29 Sec. 2DD. Telecommunication service provider selection.
 30 A telecommunication carrier shall not submit or execute a

1 change in a subscriber's selection of a provider of local
2 exchange telecommunications service or interexchange
3 telecommunications service or offer or provide a product or
4 service to be billed on the telephone bill as provided in
5 Sections 13-902 and 13-903 ~~any-additional--telecommunications~~
6 ~~service--as-defined-in-Section-13-902~~ of the Public Utilities
7 Act except in accordance with (i) the verification procedures
8 adopted by the Federal Communications Commission under the
9 Communications Act of 1996, including subpart K of 47 CFR 64,
10 as those procedures are from time to time amended, and (ii)
11 Sections 13-902 and 13-903 ~~Section--13-902~~ of the Public
12 Utilities Act and any rules adopted by the Illinois Commerce
13 Commission under the authority of that Section as those rules
14 are from time to time amended. A telecommunications carrier
15 that violates this Section commits an unlawful practice
16 within the meaning of this Act.

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

18 Section 99. Effective date. This Act takes effect June
19 30, 2001."