

1 AN ACT in relation to the administration and funding of
2 the Illinois Commerce Commission.

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

5 Section 5. The Public Utilities Act is amended by
6 changing Section 2-202 and by adding Section 2-301 as
7 follows:

8 (220 ILCS 5/2-202) (from Ch. 111 2/3, par. 2-202)

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

10 (a) It is declared to be the public policy of this State
11 that in order to maintain and foster the effective regulation
12 of public utilities under this Act in the interests of the
13 People of the State of Illinois and the public utilities as
14 well, the public utilities subject to regulation under this
15 Act and which enjoy the privilege of operating as public
16 utilities in this State, shall bear the expense of
17 administering this Act by means of a tax on such privilege
18 measured by the annual gross revenue of such public utilities
19 in the manner provided in this Section. For purposes of this
20 Section, "expense of administering this Act" includes any
21 costs incident to studies, whether made by the Commission or
22 under contract entered into by the Commission, concerning
23 environmental pollution problems caused or contributed to by
24 public utilities and the means for eliminating or abating
25 those problems. Such proceeds shall be deposited in the
26 Public Utility Fund in the State treasury.

27 (b) All of the ordinary and contingent expenses of the
28 Commission incident to the administration of this Act shall
29 be paid out of the Public Utility Fund except the
30 compensation of the members of the Commission which shall be
31 paid from the General Revenue Fund. Notwithstanding other

1 provisions of this Act to the contrary, the ordinary and
2 contingent expenses of the Commission incident to the
3 administration of the Illinois Commercial Transportation Law
4 may be paid from appropriations from the Public Utility Fund
5 through the end of fiscal year 1986.

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

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

19 (1) Except as provided in paragraph (2) of this
20 subsection (d), on or before January 10 of each year each
21 public utility subject to the provisions of this Act
22 shall file with the Commission an estimated annual gross
23 revenue return containing an estimate of the amount of
24 its gross revenue for the calendar year commencing
25 January 1 of said year and a statement of the amount of
26 tax due for said calendar year on the basis of that
27 estimate. Public utilities may also file revised returns
28 containing updated estimates and updated amounts of tax
29 due during the calendar year. These revised returns, if
30 filed, shall form the basis for quarterly payments due
31 during the remainder of the calendar year. In addition,
32 on or before March 31 ~~February-15~~ of each year, each
33 public utility shall file an amended return showing the
34 actual amount of gross revenues shown by the company's

1 books and records as of December 31 of the previous year.
2 Forms and instructions for such estimated, revised, and
3 amended returns shall be devised and supplied by the
4 Commission.

5 (2) Beginning with returns due after January 1,
6 2002 1993, the requirements of paragraph (1) of this
7 subsection (d) shall not apply to any public utility in
8 any calendar year for which the total tax the public
9 utility owes under this Section is less than \$10,000
10 \$17,000. For such public utilities with respect to such
11 years, the public utility shall file with the Commission,
12 on or before March January 31 of the following year, an
13 annual gross revenue return for the year and a statement
14 of the amount of tax due for that year on the basis of
15 such a return. Forms and instructions for such returns
16 and corrected returns shall be devised and supplied by
17 the Commission.

18 (e) All returns submitted to the Commission by a public
19 utility as provided in this subsection (e) or subsection (d)
20 of this Section shall contain or be verified by a written
21 declaration by an appropriate officer of the public utility
22 that the return is made under the penalties of perjury. The
23 Commission may audit each such return submitted and may,
24 under the provisions of Section 5-101 of this Act, take such
25 measures as are necessary to ascertain the correctness of the
26 returns submitted. The Commission has the power to direct the
27 filing of a corrected return by any utility which has filed
28 an incorrect return and to direct the filing of a return by
29 any utility which has failed to submit a return. A
30 taxpayer's signing a fraudulent return under this Section is
31 perjury, as defined in Section 32-2 of the Criminal Code of
32 1961.

33 (f) (1) For all public utilities subject to paragraph
34 (1) of subsection (d), at least one quarter of the annual

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

17 (2) Any public utility subject to paragraph (2) of
18 subsection (d) shall pay the amount of tax due under
19 subsection (c) on or before March January 31 next following
20 the end of the calendar year subject to tax. In the event
21 that an adjustment in the amount of tax due should be
22 necessary as a result of the filing of a corrected return
23 under subsection (e), the amount of any deficiency shall be
24 paid by the public utility at the time the corrected return
25 is filed. Any excess tax payment by the public utility shall
26 be returned to it after the filing of a claim for credit, in
27 the form of a credit memorandum in the amount of the excess.
28 However, if such deficiency or excess is less than \$1, the
29 public utility need not pay the deficiency and may not claim
30 a credit.

31 (g) Each installment or required payment of the tax
32 imposed by subsection (c) becomes delinquent at midnight of
33 the date that it is due. Failure to make a payment as
34 required by this Section shall result in the imposition of a

1 late payment penalty, an underestimation penalty, or both, as
2 provided by this subsection. The late payment penalty shall
3 be the greater of:

4 (1) \$25 for each month or portion of a month that
5 the installment or required payment is unpaid or

6 (2) an amount equal to the difference between what
7 should have been paid on the due date, based upon the
8 most recently filed estimated, annual, or amended return
9 estimate, and what was actually paid, times 1%, for each
10 month or portion of a month that the installment or
11 required payment goes unpaid. This penalty may be
12 assessed as soon as the installment or required payment
13 becomes delinquent.

14 The underestimation penalty shall apply to those public
15 utilities subject to paragraph (1) of subsection (d) and
16 shall be calculated after the filing of the amended return.
17 It shall be imposed if the amount actually paid on any of the
18 dates specified in subsection (f) is not equal to at least
19 one-fourth of the amount actually due for the year, and shall
20 equal the greater of:

21 (1) \$25 for each month or portion of a month that
22 the amount due is unpaid or

23 (2) an amount equal to the difference between what
24 should have been paid, based on the amended return, and
25 what was actually paid as of the date specified in
26 subsection (f), times a percentage equal to 1/12 of the
27 sum of 10% and the percentage most recently established
28 by the Commission for interest to be paid on customer
29 deposits under 83 Ill. Adm. Code 280.70(e)(1), for each
30 month or portion of a month that the amount due goes
31 unpaid, except that no underestimation penalty shall be
32 assessed if the amount actually paid on or before each of
33 the dates specified in subsection (f) was based on an
34 estimate of gross revenues at least equal to the actual

1 gross revenues for the previous year. The Commission may
2 enforce the collection of any delinquent installment or
3 payment, or portion thereof by legal action or in any
4 other manner by which the collection of debts due the
5 State of Illinois may be enforced under the laws of this
6 State. The executive director or his designee may excuse
7 the payment of an assessed penalty or a portion of an
8 assessed penalty if he determines that enforced
9 collection of the penalty as assessed would be unjust.

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

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

16 (1) determine the amount of all moneys deposited in
17 the Public Utility Fund during the preceding fiscal
18 biennium plus the balance, if any, in that fund at the
19 beginning of that biennium;

20 (2) determine the sum total of the following items:
21 (A) all moneys expended or obligated against
22 appropriations made from the Public Utility Fund during
23 the preceding fiscal biennium, plus (B) the sum of the
24 credit memoranda then outstanding against the Public
25 Utility Fund, if any; and

26 (3) determine the amount, if any, by which the sum
27 determined as provided in item (1) exceeds the amount
28 determined as provided in item (2).

29 If the amount determined as provided in item (3) of this
30 subsection exceeds \$5,000,000 ~~\$2,500,000~~, the Commission
31 shall then compute the proportionate amount, if any, which
32 (x) the tax paid hereunder by each utility during the
33 preceding biennium, and (y) the amount paid into the Public
34 Utility Fund during the preceding biennium by the Department

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

19 (j) Credit memoranda issued pursuant to subsection (f)
20 and credit memoranda issued after notification and filing
21 pursuant to subsection (i) may be applied for the 2 year
22 period from the date of issuance, against the payment of any
23 amount due during that period under the tax imposed by
24 subsection (c), or, subject to reasonable rule of the
25 Commission including requirement of notification, may be
26 assigned to any other public utility subject to regulation
27 under this Act. Any application of credit memoranda after the
28 period provided for in this Section is void.

29 (k) The chairman or executive director may make refund
30 of fees, taxes or other charges whenever he shall determine
31 that the person or public utility will not be liable for
32 payment of such fees, taxes or charges during the next 24
33 months and he determines that the issuance of a credit
34 memorandum would be unjust.

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

3 (220 ILCS 5/2-301 new)

4 Sec. 2-301. Filing fees.

5 (a) In addition to any other fees and taxes imposed
6 pursuant to this Act, the Commission is authorized to
7 establish by rule filing fees for the following filings,
8 irrespective of whether those filings are made by electronic
9 means or otherwise:

10 (1) the filing of any rate;

11 (2) the filing of contracts with customers when the
12 filing is required or permitted by this Act or by a rate
13 on file pursuant to this Act;

14 (3) the filing with a public utility's rates of any
15 municipal ordinance, as required by this Act or by rule
16 of the Commission;

17 (4) the filing of any petition or application for
18 special permission for the filing of such tariffs,
19 contracts, or ordinances;

20 (5) the filing of any annual report required by
21 this Act or by rule of the Commission;

22 (6) the filing of any annual certification required
23 by this Act or by rule of the Commission; and

24 (7) the filing of any application, petition,
25 complaint, negotiated agreement, arbitrated agreement, or
26 any other pleading, document, or writing that initiates a
27 contested case, licensing proceeding, rulemaking, rate
28 proceeding, declaratory ruling proceeding, or other
29 formal Commission proceeding, except a proceeding
30 initiated by the Commission itself.

31 The Commission may provide by rule for reasonable waivers
32 of, or reductions in, these fees, and shall provide by rule
33 that no filing fees shall be charged under this Section to

1 any municipality, county, or "statutory consumer protection
2 agency" as that term is defined in Section 9-102.1 of this
3 Act.

4 (b) The fees established by the Commission shall be set
5 at amounts reasonably calculated, on the basis of reasonable
6 projections based upon information for the most recent
7 12-month period available at the time the Commission's rules
8 are proposed, to produce revenues equal to \$500,000 per year.
9 This shall not be a limitation on the amount of fees actually
10 collected by the Commission under this Section. All fees
11 collected by the Commission under this Section shall be
12 deposited in the Public Utility Fund in the State treasury.
13 The Commission shall account separately for all moneys
14 received under this Section, and shall expend those moneys
15 only for the purposes of creating and maintaining one or
16 more electronic systems for the filing, maintenance, storage,
17 and retrieval of documents and information, including without
18 limitation rates, contracts, ordinances, reports,
19 certifications, petitions, applications, complaints,
20 negotiated agreements, arbitrated agreements, pleadings,
21 writings, and all evidence and documents that are part of the
22 Commission's record in formal proceedings. Moneys received by
23 the Commission under this Section shall not at any time be
24 appropriated or diverted to any other use or purpose.

25 (c) Upon failure to pay an applicable filing fee for any
26 document under this Section, the Commission shall neither
27 allow the filing nor entertain a proceeding concerning the
28 document. No prescribed time limit imposed on the Commission
29 or its proceedings begins to run until the applicable filing
30 fee is paid. In addition, and without limiting any power of
31 the Commission under any other Section of this Act to revoke,
32 rescind, or reconsider any certificate issued under this Act,
33 failure to pay any filing fee for an annual report or annual
34 certification required by this Act or by Commission rule

1 shall be grounds for the revocation or suspension of the
 2 non-paying entity's certificate of public convenience and
 3 necessity, certificate of service authority, certificate
 4 authorizing operations as a common carrier by pipeline, or
 5 other franchise, license, permit, or right to own, operate,
 6 manage, or control any public utility, telecommunications
 7 carrier, common carrier by pipeline, or alternative retail
 8 electric supplier.

9 (d) This Section is repealed effective July 1, 2007.

10 Section 10. The Illinois Vehicle Code is amended by
 11 adding Section 18c-1502.15 as follows:

12 (625 ILCS 5/18c-1502.15 new)

13 Sec. 18c-1502.15. Appropriations for Electronic One-Stop
 14 System. Each fiscal year from fiscal year 2003 through and
 15 including fiscal year 2007, the General Assembly may
 16 appropriate up to \$500,000 from the Transportation Regulatory
 17 Fund to support the Commission's operation of an Electronic
 18 One-Stop System.

19 Section 99. Effective date. This Act takes effect upon
 20 becoming law.