

1 AN ACT concerning telecommunications.

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

4 Section 5. The Public Utilities Act is amended by adding
5 Sections 13-306 and 13-519 and Article XIIIIE as follows:

6 (220 ILCS 5/13-306 new)

7 (Section scheduled to be repealed on July 1, 2005)

8 Sec. 13-306. Infrastructure reports.

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

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

30 (220 ILCS 5/13-519 new)

(Section scheduled to be repealed on July 1, 2005)

Sec. 13-519. Dividend limitations. A telecommunications carrier that is an incumbent local exchange carrier may not declare any cash, stock, bond, or scrip dividend or distribution or divide the proceeds of the sale of any stock, bond, or scrip among its stockholders while the carrier is in violation of a Commission order or while there exists against the carrier a Commission finding of failure to meet structural separation obligations under this Act, except upon Commission approval after notice and hearing.

(220 ILCS 5/Art. XIIIIE heading new)

ARTICLE XIIIIE. STRUCTURAL SEPARATION

(220 ILCS 5/13E-101 new)

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

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

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

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

"Wholesale affiliate" means a telephone company created by the structural separation of the incumbent local exchange carrier required under Section 13E-110 of this Article to provide wholesale telecommunications services to competitive

1 local exchange carriers and to the retail affiliate.

2 (220 ILCS 5/13E-105 new)

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

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

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

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

15 (220 ILCS 5/13E-110 new)

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

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

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

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

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

32 (e) The wholesale affiliate must operate completely

1 independently from the retail affiliate. The retail affiliate
2 may not jointly own with the wholesale affiliate, or
3 otherwise control, any network facilities or the land,
4 buildings, poles, conduits, or rights-of-way on or in which
5 network facilities are located.

6 (f) (1) All transactions and agreements between the
7 retail affiliate and the wholesale affiliate:

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

9 (B) must be reduced to writing and be
10 available for public inspection; and

11 (C) may not take effect until approved by the
12 Commission.

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

18 (A) does not discriminate against competitive
19 local exchange carriers; and

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

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

24 (1) maintain separate books, records, and accounts;
25 and

26 (2) have separate officers, directors, and
27 employees.

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

31 (i) The wholesale affiliate must make all products,
32 services, and service functions, including network elements,
33 facilities, interfaces, and systems, available to each
34 competitive local exchange carrier at the prices, terms, and

1 conditions at which they are available to the retail
 2 affiliate. The wholesale affiliate may make all of those
 3 products, services, and service functions available to an
 4 affiliated or unaffiliated competitive local exchange carrier
 5 only through a tariff or an interconnection agreement
 6 approved by the Commission.

7 (220 ILCS 5/13E-115 new)

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

9 (a) The Commission may adopt:

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

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

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

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

19 (220 ILCS 5/13E-205 new)

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

21 (a) On or before August 1, 2003, the Commission shall
 22 begin proceedings to implement this Article. The Commission
 23 shall conclude the proceedings on or before February 1,
 24 2004.

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

32 (1) the retail affiliate is not given any undue

1 preference or advantage in its relationship with the
2 wholesale affiliate; and

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

7 (220 ILCS 5/13E-210 new)

8 Sec. 13E-210. Report to the General Assembly. On or
9 before January 14, 2004, the Commission shall report to the
10 General Assembly on the status of competition in local
11 exchange telephone service in this State and on the
12 implementation of this Article.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.