

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
5 changing Section 13-801 as follows:

6 (220 ILCS 5/13-801) (from Ch. 111 2/3, par. 13-801)

7 (Section scheduled to be repealed on July 1, 2005)

8 Sec. 13-801. Incumbent local exchange carrier
9 obligations.

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

22 An incumbent local exchange carrier shall provide a
23 requesting telecommunications carrier with interconnection,
24 collocation, network elements, and access to operations
25 support systems on just, reasonable, and nondiscriminatory
26 rates, terms, and conditions to enable the provision of any
27 and all existing and new telecommunications services within
28 the LATA, including, but not limited to, local exchange and
29 exchange access. The Commission shall require the incumbent
30 local exchange carrier to provide interconnection,
31 collocation, and network elements in any manner technically

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

9 (b) Interconnection.

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

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

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

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

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

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

23 (3) In every exchange where the incumbent local
24 exchange carrier has received a request for
25 interconnection pursuant to Section 251 of the federal
26 Telecommunications Act or this Section, the end user
27 shall have the right to select its local exchange
28 provider pursuant to the provisions of this subsection.

29 (A) Within 90 days after the effective date of
30 the interconnection agreement, the incumbent local
31 exchange provider shall provide written information
32 that has been approved by the Commission to all
33 residential end users describing the availability of
34 alternative local exchange telecommunications

1 service. For the purpose of this provision,
2 "alternative local exchange telecommunications
3 service" is local exchange telecommunications
4 service provided by a telecommunications service
5 provider other than the incumbent local exchange
6 service provider.

7 (B) Where interconnection agreements have been
8 executed and approved more than 180 days prior to
9 the effective date of this amendatory Act of the
10 93rd General Assembly, the incumbent local exchange
11 carrier shall furnish customers with information
12 that provides clear directions and forms to allow
13 customers to select their local exchange provider.

14 (C) In the case of residential end users who
15 commence service more than 90 days after the
16 alternative local exchange service becomes
17 available, the customers shall be informed of their
18 carrier selection options at the time service is
19 requested and required to select their interLATA and
20 their intraLATA primary carriers in addition to
21 their local exchange providers.

22 (4) In every exchange where the incumbent local
23 exchange carrier is subject to Section 271 of the federal
24 Telecommunications Act and has requested and received
25 permission from the Federal Communications Commission
26 ("FCC") to provide long distance service within this
27 State, the incumbent local exchange carrier shall make
28 available electronic loop provisioning between the
29 residential end user and the incumbent local exchange
30 carrier's network.

31 (c) Collocation. An incumbent local exchange carrier
32 shall provide for physical or virtual collocation of any type
33 of equipment for interconnection or access to network
34 elements at the premises of the incumbent local exchange

1 carrier on just, reasonable, and nondiscriminatory rates,
2 terms, and conditions. The equipment shall include, but is
3 not limited to, optical transmission equipment, multiplexers,
4 remote switching modules, and cross-connects between the
5 facilities or equipment of other collocated carriers. The
6 equipment shall also include microwave transmission
7 facilities on the exterior and interior of the incumbent
8 local exchange carrier's premises used for interconnection
9 to, or for access to network elements of, the incumbent local
10 exchange carrier or a collocated carrier, unless the
11 incumbent local exchange carrier demonstrates to the
12 Commission that it is not practical due to technical reasons
13 or space limitations. An incumbent local exchange carrier
14 shall allow, and provide for, the most reasonably direct and
15 efficient cross-connects, that are consistent with safety and
16 network reliability standards, between the facilities of
17 collocated carriers. An incumbent local exchange carrier
18 shall also allow, and provide for, cross connects between a
19 noncollocated telecommunications carrier's network elements
20 platform, or a noncollocated telecommunications carrier's
21 transport facilities, and the facilities of any collocated
22 carrier, consistent with safety and network reliability
23 standards.

24 (d) Network elements. The incumbent local exchange
25 carrier shall provide to any requesting telecommunications
26 carrier, for the provision of an existing or a new
27 telecommunications service, nondiscriminatory access to
28 network elements on any unbundled or bundled basis, as
29 requested, at any technically feasible point on just,
30 reasonable, and nondiscriminatory rates, terms, and
31 conditions.

32 (1) An incumbent local exchange carrier shall
33 provide unbundled network elements in a manner that
34 allows requesting telecommunications carriers to combine

1 those network elements to provide a telecommunications
2 service.

3 (2) An incumbent local exchange carrier shall not
4 separate network elements that are currently combined,
5 except at the explicit direction of the requesting
6 carrier.

7 (3) Upon request, an incumbent local exchange
8 carrier shall combine any sequence of unbundled network
9 elements that it ordinarily combines for itself,
10 including but not limited to, unbundled network elements
11 identified in The Draft of the Proposed Ameritech
12 Illinois 271 Amendment (I2A) found in Schedule SJA-4
13 attached to Exhibit 3.1 filed by Illinois Bell Telephone
14 Company on or about March 28, 2001 with the Illinois
15 Commerce Commission under Illinois Commerce Commission
16 Docket Number 00-0700. The Commission shall determine
17 those network elements the incumbent local exchange
18 carrier ordinarily combines for itself if there is a
19 dispute between the incumbent local exchange carrier and
20 the requesting telecommunications carrier under this
21 subdivision of this Section of this Act.

22 The incumbent local exchange carrier shall be
23 entitled to recover from the requesting
24 telecommunications carrier any just and reasonable
25 special construction costs incurred in combining such
26 unbundled network elements (i) if such costs are not
27 already included in the established price of providing
28 the network elements, (ii) if the incumbent local
29 exchange carrier charges such costs to its retail
30 telecommunications end users, and (iii) if fully
31 disclosed in advance to the requesting telecommunications
32 carrier. The Commission shall determine whether the
33 incumbent local exchange carrier is entitled to any
34 special construction costs if there is a dispute between

1 the incumbent local exchange carrier and the requesting
2 telecommunications carrier under this subdivision of this
3 Section of this Act.

4 (4) A telecommunications carrier may use a network
5 elements platform consisting solely of combined network
6 elements of the incumbent local exchange carrier to
7 provide end to end telecommunications service for the
8 provision of existing and new local exchange,
9 interexchange that includes local, local toll, and
10 intraLATA toll, and exchange access telecommunications
11 services within the LATA to its end users or payphone
12 service providers without the requesting
13 telecommunications carrier's provision or use of any
14 other facilities or functionalities.

15 (5) The Commission shall establish maximum time
16 periods for the incumbent local exchange carrier's
17 provision of network elements. The maximum time period
18 shall be no longer than the time period for the incumbent
19 local exchange carrier's provision of comparable retail
20 telecommunications services utilizing those network
21 elements. The Commission may establish a maximum time
22 period for a particular network element that is shorter
23 than for a comparable retail telecommunications service
24 offered by the incumbent local exchange carrier if a
25 requesting telecommunications carrier establishes that
26 it shall perform other functions or activities after
27 receipt of the particular network element to provide
28 telecommunications services to end users. The burden of
29 proof for establishing a maximum time period for a
30 particular network element that is shorter than for a
31 comparable retail telecommunications service offered by
32 the incumbent local exchange carrier shall be on the
33 requesting telecommunications carrier. Notwithstanding
34 any other provision of this Article, unless and until the

1 Commission establishes by rule or order a different
2 specific maximum time interval, the maximum time
3 intervals shall not exceed 5 business days for the
4 provision of unbundled loops, both digital and analog, 10
5 business days for the conditioning of unbundled loops or
6 for existing combinations of network elements for an end
7 user that has existing local exchange telecommunications
8 service, and one business day for the provision of the
9 high frequency portion of the loop (line-sharing) for at
10 least 95% of the requests of each requesting
11 telecommunications carrier for each month.

12 In measuring the incumbent local exchange carrier's
13 actual performance, the Commission shall ensure that
14 occurrences beyond the control of the incumbent local
15 exchange carrier that adversely affect the incumbent
16 local exchange carrier's performance are excluded when
17 determining actual performance levels. Such occurrences
18 shall be determined by the Commission, but at a minimum
19 must include work stoppage or other labor actions and
20 acts of war. Exclusions shall also be made for
21 performance that is governed by agreements approved by
22 the Commission and containing timeframes for the same or
23 similar measures or for when a requesting
24 telecommunications carrier requests a longer time
25 interval.

26 (6) When a telecommunications carrier requests a
27 network elements platform referred to in subdivision
28 (d)(4) of this Section, without the need for field work
29 outside of the central office, for an end user that has
30 existing local exchange telecommunications service
31 provided by an incumbent local exchange carrier, or by
32 another telecommunications carrier through the incumbent
33 local exchange carrier's network elements platform,
34 unless otherwise agreed by the telecommunications

1 carriers, the incumbent local exchange carrier shall
2 provide the requesting telecommunications carrier with
3 the requested network elements platform within 3 business
4 days for at least 95% of the requests for each requesting
5 telecommunications carrier for each month. A requesting
6 telecommunications carrier may order the network elements
7 platform as is for an end user that has such existing
8 local exchange service without changing any of the
9 features previously selected by the end user. The
10 incumbent local exchange carrier shall provide the
11 requested network elements platform without any
12 disruption to the end user's services.

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

26 (e) Operations support systems. The Commission shall
27 establish minimum standards with just, reasonable, and
28 nondiscriminatory rates, terms, and conditions for the
29 preordering, ordering, provisioning, maintenance and repair,
30 and billing functions of the incumbent local exchange
31 carrier's operations support systems provided to other
32 telecommunications carriers. In every exchange where the
33 incumbent local exchange carrier is subject to Section 271 of
34 the federal Telecommunications Act and has requested and

1 received permission from the Federal Communications
2 Commission ("FCC") to provide long distance service within
3 this State, the incumbent local exchange carrier shall make
4 available electronic loop provisioning between the
5 residential end user and the incumbent local exchange
6 carrier's network.

7 (f) Resale. An incumbent local exchange carrier shall
8 offer all retail telecommunications services, that the
9 incumbent local exchange carrier provides at retail to
10 subscribers who are not telecommunications carriers, within
11 the LATA, together with each applicable optional feature or
12 functionality, subject to resale at wholesale rates without
13 imposing any unreasonable or discriminatory conditions or
14 limitations. Wholesale rates shall be based on the retail
15 rates charged to end users for the telecommunications service
16 requested, excluding the portion thereof attributable to any
17 marketing, billing, collection, and other costs avoided by
18 the local exchange carrier. The Commission may determine
19 under Article IX of this Act that certain noncompetitive
20 services, together with each applicable optional feature or
21 functionality, that are offered to residence customers under
22 different rates, charges, terms, or conditions than to other
23 customers should not be subject to resale under the rates,
24 charges, terms, or conditions available only to residence
25 customers.

26 (g) Cost based rates. Interconnection, collocation,
27 network elements, and operations support systems shall be
28 provided by the incumbent local exchange carrier to
29 requesting telecommunications carriers at cost based rates.
30 The immediate implementation and provisioning of
31 interconnection, collocation, network elements, and
32 operations support systems shall not be delayed due to any
33 lack of determination by the Commission as to the cost based
34 rates. When cost based rates have not been established,

1 within 30 days after the filing of a petition for the setting
2 of interim rates, or after the Commission's own motion, the
3 Commission shall provide for interim rates that shall remain
4 in full force and effect until the cost based rate
5 determination is made, or the interim rate is modified, by
6 the Commission.

7 (h) Rural exemption. This Section does not apply to
8 certain rural telephone companies as described in 47 U.S.C.
9 251(f).

10 (i) Schedule of rates. A telecommunications carrier may
11 request the incumbent local exchange carrier to provide a
12 schedule of rates listing each of the rate elements of the
13 incumbent local exchange carrier that pertains to a proposed
14 order identified by the requesting telecommunications carrier
15 for any of the matters covered in this Section. The
16 incumbent local exchange carrier shall deliver the requested
17 schedule of rates to the requesting telecommunications
18 carrier within 2 business days for 95% of the requests for
19 each requesting carrier

20 (j) Special access circuits. Other than as provided in
21 subdivision (d)(4) of this Section for the network elements
22 platform described in that subdivision, nothing in this
23 amendatory Act of the 92nd General Assembly is intended to
24 require or prohibit the substitution of switched or special
25 access services by or with a combination of network elements
26 nor address the Illinois Commerce Commission's jurisdiction
27 or authority in this area.

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

31 (Source: P.A. 92-22, eff. 6-30-01.)