

1 complained of, if any, resides, in the name of the People of
2 the State of Illinois, for the purpose of having the
3 violation or threatened violation stopped and prevented,
4 either by mandamus or injunction.

5 The Commission may express its opinion in a resolution
6 based upon whatever facts and evidence have come to its
7 attention and may issue the resolution ex parte and without
8 holding any administrative hearing before bringing suit.
9 Except in cases involving an imminent threat to the public
10 health or public safety, no such resolution shall be adopted
11 until 48 hours after the public utility has been given notice
12 of (i) the substance of the alleged violation, including a
13 citation to the law or order, decision, rule, regulation, or
14 direction of the Commission alleged to have been violated and
15 (ii) the time and date of the meeting at which such
16 resolution will first be before the Commission for
17 consideration.

18 The Commission shall file the action or proceeding by
19 complaint in the circuit court, alleging the violation or
20 threatened violation complained of, and praying for
21 appropriate relief by way of mandamus or injunction. It
22 shall thereupon be the duty of the court to specify a time,
23 not exceeding 20 days after the service of the copy of the
24 complaint, within which the public utility complained of must
25 answer the complaint, and in the meantime said public utility
26 may be restrained. In case of default in answer, or after
27 answer, the court shall immediately inquire into the facts
28 and circumstances of the case. Such corporation or persons
29 as the court may deem necessary or proper to be joined as
30 parties, in order to make its judgment, or order effective,
31 may be joined as parties. The final judgment in any action
32 or proceeding shall either dismiss the action or proceeding
33 or grant relief by mandamus or injunction or be made
34 permanent as prayed for in the complaint, or in such modified

1 or other form as will afford appropriate relief. An appeal
2 may be taken from such final judgment as in other civil
3 cases.

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

5 (220 ILCS 5/4-203) (from Ch. 111 2/3, par. 4-203)

6 Sec. 4-203. Action to recover penalties.

7 (a) All civil penalties established under this Act shall
8 be assessed and collected by the Commission. Except for the
9 penalties provided under Section 2-202, civil penalties may
10 be assessed only after notice and opportunity to be heard.
11 In determining the amount of the penalty, the Commission
12 shall consider the appropriateness of the penalty to the size
13 of the business of the public utility, corporation other than
14 a public utility, or person acting as a public utility
15 charged, the gravity of the violation, and the good faith of
16 the public utility, corporation other than a public utility,
17 or person acting as a public utility charged in attempting to
18 achieve compliance after notification of a violation. Nothing
19 in this Section, however, increases or decreases any minimum
20 or maximum penalty prescribed elsewhere in this Act.

21 (b) If timely judicial review of a Commission order that
22 imposes a civil penalty is taken by the public utility,
23 corporation other than a public utility, or person acting as
24 a public utility on which the civil penalty has been imposed,
25 the reviewing court shall enter a judgment on all amounts
26 upon affirmance of the Commission order. If timely judicial
27 review is not taken and the civil penalty remains unpaid for
28 60 days after service of the order, the Commission in its
29 discretion may either begin revocation proceedings or bring
30 suit to recover the penalties. Unless stayed by a reviewing
31 court, interest shall accrue from 60 days after the date of
32 service of the Commission order.

33 (c) Actions to recover delinquent civil penalties under

1 this Act shall be brought in the name of the People of the
 2 State of Illinois in the circuit court in and for the county
 3 in which the cause, or some part thereof, arose, or in which
 4 the corporation complained of, if any, has its principal
 5 place of business, or in which the person, if any, complained
 6 of, resides. The action shall be commenced and prosecuted to
 7 final judgment by the Commission. In any such action, all
 8 interest incurred up to the time of final court judgment may
 9 be sued for and recovered in that action. In all such
 10 actions, the procedure and rules of evidence shall be the
 11 same as in ordinary civil actions, except as otherwise herein
 12 provided. All fines and penalties recovered by the State in
 13 any such action shall be paid into the State treasury to the
 14 credit of the General Revenue Fund. Any such action may be
 15 compromised or discontinued on application of the Commission
 16 upon such terms as the court shall approve and order.

17 (d) Civil penalties related to the late filing of
 18 reports, taxes, or other filings shall be paid into the State
 19 treasury to the credit of the Public Utility Fund. Except as
 20 otherwise provided in this Act, all other fines and civil
 21 penalties shall be paid into the State treasury to the credit
 22 of the General Revenue Fund. Except-as-otherwise-provided-in
 23 this-Act,-actions-to-recover-penalties-under-this--Act--shall
 24 be-brought-in-the-name-of-the-People-of-the-State-of-Illinois
 25 in--the--circuit--court--in--and--for-the-county-in-which-the
 26 cause,-or--some--part--thereof,-arose,-or--in--which--the
 27 corporation-complained-of,-if-any,-has-its-principal-place-of
 28 business,-or--in--which--the--person,-if-any,-complained-of,-
 29 resides.-The-action-shall--be--commenced--and--prosecuted--to
 30 final--judgment--by--the--Commission,-In-any-such-action,-all
 31 penalties-incurred-up-to-the-time-of-commencing-the-same--may
 32 be-sued-for-and-recovered.-In-all-such-actions,-the-procedure
 33 and--rules-of-evidence-shall-be-the-same-as-in-ordinary-civil
 34 actions,-except-as-otherwise-herein-provided.-All--fines--and

1 penalties--recovered-by-the-State-in-any-such-action-shall-be
 2 paid-into-the-State-treasury-to-the--credit--of--the--general
 3 fund.--Any--such-action-may-be-compromised-or-discontinued-on
 4 application-of-the-Commission-upon-such-terms--as--the--court
 5 shall-approve-and-order.

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

7 (220 ILCS 5/5-107) (from Ch. 111 2/3, par. 5-107)

8 Sec. 5-107. Falsification or destruction of accounts and
 9 records. Any person who shall willfully wilfully make any
 10 false entry in the accounts, or in any record or memoranda or
 11 by any other means or device falsify the record of any such
 12 account, record or memoranda, or who shall willfully
 13 withhold, neglect, or fail to make full, true, and correct
 14 entries in such accounts, records, or memoranda of all facts
 15 in transactions appertaining to the business of the public
 16 utility, or shall keep any accounts or record other than
 17 those prescribed or approved by the Commission, shall be
 18 guilty of a Class A misdemeanor.

19 If any such books, accounts, records or memoranda shall
 20 have been preserved for a period of at least three years, a
 21 public utility may with the consent of the Commission destroy
 22 such of them as in the judgment of the Commission may
 23 properly be destroyed.

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

25 (220 ILCS 5/5-109) (from Ch. 111 2/3, par. 5-109)

26 Sec. 5-109. Reports; false reports; penalty. Each
 27 public utility in the State shall each year furnish to the
 28 Commission, in such form as the Commission shall require,
 29 annual reports as to all the items mentioned in the preceding
 30 Sections of this Article, and in addition such other items,
 31 whether of a nature similar to those therein enumerated or
 32 otherwise, as the Commission may prescribe. Such annual

1 reports shall contain all the required information for the
2 period to 12 twelve months ending on the ~~thirtieth-day-of~~
3 June 30 in each year, or ending on the ~~thirty-first-day-of~~
4 December 31 in each year, as the Commission may by order
5 prescribe for each class of public utilities, and shall be
6 filed with the Commission at its office in Springfield within
7 three months after the close of the year for which the report
8 is made. The Commission shall have authority to require any
9 public utility to file monthly reports of earnings and
10 expenses of such utility, and to file other periodical or
11 special, or both periodical and special reports concerning
12 any matter about which the Commission is authorized by law to
13 keep itself informed. All reports shall be under oath.

14 When any report is erroneous or defective or appears to
15 the Commission to be erroneous or defective, the Commission
16 may notify the public utility to amend such report within 30
17 ~~thirty~~ days, and before or after the termination of such
18 period the Commission may examine the officers, agents, or
19 employees, and books, records, accounts, vouchers, plant,
20 equipment and property of such public utility, and correct
21 such items in the report as upon such examination the
22 Commission may find defective or erroneous.

23 All reports made to the Commission by any public utility
24 and the contents thereof shall be open to public inspection,
25 unless otherwise ordered by the Commission. Such reports
26 shall be preserved in the office of the Commission.

27 Any public utility which fails to make and file any
28 report called for by the Commission within the time
29 specified; or to make specific answer to any question
30 propounded by the Commission within 30 ~~thirty~~ days from the
31 time it is lawfully required to do so, or within such further
32 time, not to exceed 90 ~~ninety~~ days, as may in its discretion
33 be allowed by the Commission, shall forfeit up to \$100 for
34 each and every day it may so be in default if the utility

1 collects less than \$100,000 annually in gross revenue; and if
2 the utility collects \$100,000 or more annually in gross
3 revenue, it shall forfeit \$10,000 ~~\$100~~ per day for each and
4 every day it is in default.

5 Any person who willfully ~~wilfully~~ makes any false return
6 or report to the Commission, or to any member, officer, or
7 employee thereof, any person who willfully withholds or fails
8 to provide information to which the Commission is legally
9 entitled under this Act, and any person who aids or abets
10 such person shall be guilty of a Class A misdemeanor.

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

12 (220 ILCS 5/5-202) (from Ch. 111 2/3, par. 5-202)

13 Sec. 5-202. Violations; penalty. Any public utility, or
14 any corporation other than a public utility, or any person
15 acting as a public utility, that ~~which~~ violates or fails to
16 comply with any provisions of this Act, or that ~~which~~ fails
17 to obey, observe, or comply with any order, decision, rule,
18 regulation, direction, or requirement, or any part or
19 provision thereof, of the Commission, made or issued under
20 authority of this Act, in a case in which a penalty is not
21 otherwise provided for in this Act, shall be subject to a
22 civil penalty imposed in the manner provided in Section
23 4-203. A small public utility, as defined in subsection (b)
24 of Section 4-502 of this Act, is subject to a civil penalty
25 of not less than \$500 nor more than \$2,000 for each and every
26 offense. All other public utilities, corporations other than
27 a public utility, and persons acting as a public utility are
28 subject to a civil penalty of up to \$30,000 for each and
29 every offense, except as otherwise provided in Sections
30 13-304, 13-305, and 5-202.1 of this Act.

31 Every violation of the provisions of this Act or of any
32 order, decision, rule, regulation, direction, or requirement
33 of the Commission, or any part or portion thereof, by any

1 corporation or person, is a separate and distinct offense,
2 and in case of a continuing violation, each day's continuance
3 thereof shall be a separate and distinct offense.

4 In construing and enforcing the provisions of this Act
5 relating to penalties, the act, omission, or failure of any
6 officer, agent, or employee of any public utility,
7 corporation other than a public utility, or person acting as
8 a public utility, that is acting within the scope of his
9 official duties or employment, shall in every case be deemed
10 to be the act, omission, or failure of such public utility,
11 corporation other than a public utility, or person acting as
12 a public utility.

13 If the party who has violated or failed to comply with
14 this Act or an order, decision, rule, regulation, direction,
15 or requirement of the Commission, or any part or provision
16 thereof, fails to seek review pursuant to Sections 10-113 and
17 10-201 of this Act within 30 days after of service of the
18 order, the party shall, upon expiration of the 30 days, be
19 subject to the civil penalty provision of this Section.

20 ~~No penalties shall accrue under this provision until 15~~
21 ~~days after the mailing of a notice to such party or parties~~
22 ~~that they are in violation of or have failed to comply with~~
23 ~~the Act or order, decision, rule, regulation, direction, or~~
24 ~~requirement of the Commission or any part or provision~~
25 ~~thereof.~~

26 (Source: P.A. 87-164.)

27 (220 ILCS 5/5-202.1 new)

28 Sec. 5-202.1. Misrepresentation of testimony before
29 Commission; penalty.

30 (a) Any person or corporation, as defined in Sections
31 3-113 and 3-114 of this Act, who knowingly misrepresents
32 facts or circumstances, or aids another in doing so or
33 knowingly permits another to misrepresent facts or

1 circumstances, through testimony or the offering or
2 withholding of information in any formal or informal
3 proceeding shall be subject to a civil penalty. Whenever the
4 Commission is of the opinion that a person or corporation is
5 misrepresenting or has misrepresented facts or circumstances,
6 the Commission may initiate a proceeding to determine whether
7 a misrepresentation has in fact occurred. If the Commission
8 finds that a person or corporation has violated this Section,
9 the Commission shall impose a penalty of not less than \$5,000
10 and not greater than \$500,000. Each misrepresentation of a
11 fact or circumstance found by the Commission shall constitute
12 a separate violation. In determining the amount of the
13 penalty to be assessed, the Commission may consider any
14 matters of record in aggravation or mitigation of the
15 penalty, including but not limited to the following:

16 (1) the presence or absence of due diligence on the
17 part of the violator in attempting to comply with the
18 Act;

19 (2) any economic benefits accrued, or expected to
20 be accrued, by the violator because of the
21 misrepresentation; and

22 (3) the amount of monetary penalty that will serve
23 to deter further violations by the violator and to
24 otherwise aid in enhancing voluntary compliance with the
25 Act.

26 (b) If timely judicial review of a Commission order that
27 imposes a civil penalty under this Section is taken by the
28 person or corporation upon which the penalty has been
29 imposed, the reviewing court shall enter a judgment on all
30 amounts upon affirmance of the Commission order. If timely
31 judicial review is not taken and the civil penalty remains
32 unpaid for 60 days after service of the order, the Commission
33 in its discretion may either begin revocation proceedings or
34 bring suit to recover the penalty. Unless stayed by a

1 reviewing court, interest shall accrue from the 60th day
2 after the date of service of the Commission order to the date
3 full payment is received by the Commission.

4 (c) Actions to recover delinquent civil penalties under
5 this Section shall be brought in the name of the People of
6 the State of Illinois in the circuit court in and for the
7 county in which the cause, or some part thereof, arose, or in
8 which the entity complained of resides. The action shall be
9 commenced and prosecuted to final judgment by the Commission.
10 In any such actions, the procedure and rules of evidence
11 shall be the same as in ordinary civil actions, except as
12 otherwise herein provided.

13 (d) Civil penalties collected under this Section shall
14 be paid into the State treasury to the credit of the Public
15 Utility Fund.

16 (220 ILCS 5/10-105) (from Ch. 111 2/3, par. 10-105)

17 Sec. 10-105. No person shall be excused from testifying
18 or from producing any papers, books, accounts or documents in
19 any investigation or inquiry or upon any hearing ordered by
20 the Commission, when ordered to do so by the Commission or
21 any commissioner or hearing examiner, upon the ground that
22 the testimony or evidence, documentary or otherwise, may tend
23 to incriminate him or subject him to a penalty or forfeiture.
24 But no person shall be prosecuted or subjected to any penalty
25 or forfeiture for or on account of any transaction, matter or
26 thing concerning which he may testify or produce evidence,
27 documentary or otherwise, before the Commission or a
28 commissioner or hearing examiner: Provided, that such
29 immunity shall extend only to a natural person, who in
30 obedience to a subpoena, gives testimony under oath or
31 produces evidence, documentary or otherwise under oath. No
32 person so testifying shall be exempt from prosecution and
33 punishment for perjury committed in so testifying. A person

1 testifying shall be reasonably prepared to respond to
2 questions under cross-examination intending to elicit
3 information relevant and material to matters raised by that
4 person in his testimony. The Commission or a commissioner or
5 hearing examiner may, on the motion of a party or on its own
6 motion, strike in its entirety the testimony of a person who
7 is not reasonably prepared to respond to questions under
8 cross-examination intending to elicit information relevant
9 and material to matters raised by that person in his
10 testimony.

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

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