

1 AN ACT concerning regulation.

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 changing
5 Sections 13-100, 13-101, 13-102, 13-103, 13-202.5, 13-203,
6 13-204, 13-205, 13-209, 13-214, 13-216, 13-301, 13-305,
7 13-401, 13-403, 13-406, 13-407, 13-501, 13-502, 13-504,
8 13-505, 13-506, 13-506.1, 13-509, 13-514, 13-515, 13-517,
9 13-701, 13-712, 13-801, and 13-1200 and by adding Sections
10 13-100.5, 13-203.1, 13-203.2, 13-203.3, 13-203.4, 13-203.5,
11 13-203.6, 13-204.5, 13-400, 13-518.1, and 13-804 as follows:

12 (220 ILCS 5/13-100) (from Ch. 111 2/3, par. 13-100)

13 (Section scheduled to be repealed on July 1, 2005)

14 Sec. 13-100. This Article shall be known and may be cited
15 as the Telecommunications Reform Act of 2005 ~~Universal~~
16 ~~Telephone Service Protection Law of 1985~~.

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

18 (220 ILCS 5/13-100.5 new)

19 Sec. 13-100.5. References to former law. References in
20 this Act or any other law, rule, regulation, or other document
21 to the Universal Telephone Service Protection Law of 1985 are
22 references to the Telecommunications Reform Act of 2005. The
23 Sections of this Act pertaining to public utilities, public
24 utility rates and services, and the regulation thereof, shall
25 not apply to public mobile services.

26 (220 ILCS 5/13-101) (from Ch. 111 2/3, par. 13-101)

27 (Section scheduled to be repealed on July 1, 2005)

28 Sec. 13-101. Application of Act to telecommunications
29 rates and services. Except to the extent modified or
30 supplemented by the specific provisions of this Article, the

1 Sections of this Act pertaining to public utilities, public
2 utility rates and services, and the regulation thereof, are
3 fully and equally applicable to noncompetitive
4 telecommunications rates and services, and the regulation
5 thereof, except where the context clearly renders such
6 provisions inapplicable. Except to the extent modified or
7 supplemented by the specific provisions of this Article,
8 Articles I through V, Sections ~~8-301~~, 8-505, 9-221, 9-222,
9 9-222.1, 9-222.2, ~~9-250~~, and 9-252.1, and Article ~~Articles~~ X
10 ~~and XI~~ of this Act are fully and equally applicable to
11 competitive telecommunications ~~rates and~~ services, and the
12 regulation thereof, ~~in addition, as to competitive~~
13 ~~telecommunications rates and services, and the regulation~~
14 ~~thereof, all rules and regulations made by a telecommunications~~
15 ~~carrier affecting or pertaining to its charges or service to~~
16 ~~the public shall be just and reasonable~~, provided that nothing
17 in this Section shall be construed to prevent a
18 telecommunications carrier from accepting payment
19 electronically or by the use of a customer-preferred
20 financially accredited credit or debit methodology. Sections
21 8-305, 8-401, 8-502, and 8-507 of this Act apply to the
22 price-capped telecommunications services of an incumbent local
23 exchange carrier. As of the effective date of this amendatory
24 Act of the 92nd General Assembly, Sections 4-202, 4-203, and
25 5-202 of this Act shall cease to apply to telecommunications
26 rates and services.

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

28 (220 ILCS 5/13-102) (from Ch. 111 2/3, par. 13-102)

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

30 Sec. 13-102. Findings. With respect to telecommunications
31 services, as herein defined, and the communications
32 environment that now exists in the State of Illinois, the
33 General Assembly finds that:

34 (a) universally available and widely affordable
35 telecommunications services are essential to the health,

1 welfare and prosperity of all Illinois citizens;

2 (b) federal regulatory and judicial rulings in the 1980s
3 caused a restructuring of the telecommunications industry and
4 opened some aspects of the industry to competitive entry,
5 thereby necessitating revision of State telecommunications
6 regulatory policies and practices;

7 (c) revisions in telecommunications regulatory policies
8 and practices in Illinois beginning in the mid-1980s brought
9 the benefits of competition to consumers in many
10 telecommunications markets, but not in local exchange
11 telecommunications service markets;

12 (d) the federal Telecommunications Act of 1996 established
13 the goal of opening all telecommunications service markets to
14 competition and accords to the states certain responsibilities
15 ~~the responsibility~~ to establish and enforce policies necessary
16 to attain that goal;

17 (e) it is in the ~~immediate~~ interest of the People of the
18 State of Illinois for the State to exercise its rights within
19 the new framework of federal telecommunications policy to
20 ensure that the economic benefits of competition in all
21 telecommunications service markets are realized as effectively
22 as possible;

23 (e-5) since the passage of the federal Telecommunications
24 Act of 1996, national telecommunications policy has reaffirmed
25 the increased benefits of a pro-competitive de-regulatory
26 framework that provides incentives for both incumbent carriers
27 and new entrants to accelerate rapidly private sector
28 investment in advanced telecommunications and information
29 technologies in a manner that best allows for innovation and
30 sustainable facilities-based competition;

31 (e-10) significant changes in the communications industry,
32 both among incumbent telecommunications providers and by the
33 entry of new entrants, have brought the benefits of competition
34 to consumers and businesses in Illinois;

35 (e-15) advancements in and the convergence of technologies
36 that provide voice, video, and data transmission, including

1 landline, wireless, cable, satellite, and Internet
2 transmissions involving Internet Protocol enabled services
3 (including voice, video, and data), are substantially
4 increasing consumer choice, reinventing the communications
5 industry and marketplace with unprecedented speed, and making
6 available highly competitive products and services and new
7 methods of delivering all forms of communications services;

8 (e-20) there is now significant communications competition
9 in Illinois and a continuing convergence of multiple
10 technologies, including facilities-based telecommunications
11 services, cable telephony services, wireless services,
12 advanced information services, high speed broadband transport
13 services, and Internet Protocol enabled voice, video and data
14 services;

15 (f) the continued competitive offering of all
16 telecommunications services will increase innovation and
17 efficiency in the provision of telecommunications services and
18 ~~may~~ lead to reduced prices for consumers, a wider choice of
19 services, increased investment in communications
20 infrastructure, the creation of new jobs, and the attraction of
21 new businesses to Illinois; and

22 (g) protection of the public interest requires changes in
23 the regulation of telecommunications carriers and services
24 consistent with the competitive environment and convergence of
25 technologies ~~to ensure, to the maximum feasible extent, the~~
26 ~~reasonable and timely development of effective competition in~~
27 ~~all telecommunications service markets.~~

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

29 (220 ILCS 5/13-103) (from Ch. 111 2/3, par. 13-103)

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

31 Sec. 13-103. Policy. Consistent with its findings, the
32 General Assembly declares that it is the policy of the State of
33 Illinois that:

34 (a) telecommunications services should be available to all
35 Illinois citizens at just, reasonable, and affordable rates,

1 provisioned over a well-maintained and reliable
2 telecommunications infrastructure system, and that such
3 services should be provided as widely and economically as
4 possible in sufficient variety, quality, quantity and
5 reliability to satisfy the public interest;

6 (b) consistent with the protection of consumers of
7 telecommunications services and the furtherance of other
8 public interest goals, competition in all telecommunications
9 service markets exists and should be ~~pursued as~~ a substitute
10 for regulation in determining the variety, quality and price of
11 telecommunications services and that the economic burdens of
12 regulation should be reduced to the extent possible consistent
13 with the furtherance of market competition and protection of
14 the public interest;

15 (b-5) given the global nature of the telecommunications
16 marketplace, it is critical that the State of Illinois
17 establish and exercise its telecommunications policy within
18 the framework of federal telecommunications policy to ensure
19 that the economic benefits of competition in all communications
20 markets are maintained and enhanced;

21 (c) all necessary and appropriate modifications to State
22 regulation of telecommunications carriers and services should
23 be implemented without unnecessary disruption to the
24 telecommunications infrastructure system or to consumers of
25 telecommunications services and that it is necessary and
26 appropriate to establish rules to encourage and ensure orderly
27 transitions in the development of markets for all
28 telecommunications services;

29 (d) the consumers of telecommunications services and
30 facilities provided by persons or companies subject to
31 regulation pursuant to this Act and Article should be required
32 to pay only reasonable and non-discriminatory rates or charges
33 and that in no case should rates or charges for non-competitive
34 telecommunications services include any portion of the cost of
35 providing competitive telecommunications services, as defined
36 in Section 13-209, or the cost of any nonregulated activities;

1 (d-5) consumers of telecommunications services will
2 benefit from marketplace pricing flexibility, which is
3 designed to provide consumers with more services, more choice
4 and new innovations at lower overall prices and increased
5 value;

6 (e) the regulatory policies and procedures provided in this
7 Article are established in recognition of the changing nature
8 of the communications ~~telecommunications~~ industry and
9 therefore telecommunications should be subject to systematic
10 legislative review to ensure that the public benefits intended
11 to result from such policies and procedures are fully realized;
12 and

13 (f) development of and prudent investment in advanced
14 telecommunications services and networks that foster economic
15 development of the State should be encouraged through the
16 implementation and enforcement of policies that promote
17 effective and sustained competition in all telecommunications
18 service markets.

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

20 (220 ILCS 5/13-202.5)

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

22 Sec. 13-202.5. Incumbent local exchange carrier.
23 "Incumbent local exchange carrier" means, with respect to an
24 area, the telecommunications carrier that provided
25 noncompetitive local exchange telecommunications service in
26 that area on February 8, 1996, and on that date was deemed a
27 member of the exchange carrier association pursuant to 47
28 C.F.R. 69.601(b), and includes its successors or ~~assigns~~ ~~and~~
29 ~~affiliates~~.

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

31 (220 ILCS 5/13-203) (from Ch. 111 2/3, par. 13-203)

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

33 Sec. 13-203. Telecommunications service.

34 "Telecommunications service" means the offering of

1 telecommunications for a fee directly to the public, or to such
2 classes of users as to be effectively available directly to the
3 public, regardless of the facilities used. ~~the provision or~~
4 ~~offering for rent, sale or lease, or in exchange for other~~
5 ~~value received, of the transmittal of information, by means of~~
6 ~~electromagnetic, including light, transmission with or without~~
7 ~~benefit of any closed transmission medium, including all~~
8 ~~instrumentalities, facilities, apparatus, and services~~
9 ~~(including the collection, storage, forwarding, switching, and~~
10 ~~delivery of such information) used to provide such transmission~~
11 ~~and also includes access and interconnection arrangements and~~
12 ~~services.~~

13 "Telecommunications service" does not include, however:

14 (a) the rent, sale, or lease, or exchange for other value
15 received, of customer premises equipment except for customer
16 premises equipment owned or provided by a telecommunications
17 carrier and used for answering 911 calls, and except for
18 customer premises equipment provided under Section 13-703;

19 (b) telephone or telecommunications answering services, paging
20 services, and physical pickup and delivery incidental to the
21 provision of information transmitted through electromagnetic,
22 including light, transmission; (c) community antenna
23 television service which is operated to perform for hire the
24 service of receiving and distributing video and audio program
25 signals by wire, cable or other means to members of the public
26 who subscribe to such service, to the extent that such service
27 is utilized solely for the one-way distribution of such
28 entertainment services with no more than incidental subscriber
29 interaction required for the selection of such entertainment
30 service.

31 The Commission may, by rulemaking, exclude (1) private line
32 service which is not directly or indirectly used for the
33 origination or termination of switched telecommunications
34 service, (2) cellular radio service, (3) high-speed
35 point-to-point data transmission at or above 9.6 kilobits, or
36 (4) the provision of telecommunications service by a company or

1 person otherwise subject to Section 13-202 (c) to a
2 telecommunications carrier, which is incidental to the
3 provision of service subject to Section 13-202 (c), from active
4 regulatory oversight to the extent it finds, after notice,
5 hearing and comment that such exclusion is consistent with the
6 public interest and the purposes and policies of this Article.
7 To the extent that the Commission has excluded cellular radio
8 service from active regulatory oversight for any provider of
9 cellular radio service in this State pursuant to this Section,
10 the Commission shall exclude all other providers of cellular
11 radio service in the State from active regulatory oversight
12 without an additional rulemaking proceeding where there are 2
13 or more certified providers of cellular radio service in a
14 geographic area.

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

16 (220 ILCS 5/13-203.1 new)

17 Sec. 13-203.1. "Telecommunications" means the
18 transmission, between or among points specified by the user, of
19 information of the user's choosing, without change in the form
20 or content of the information as sent and received.

21 (220 ILCS 5/13-203.2 new)

22 Sec. 13-203.2. "Advanced service" means high speed,
23 switched, broadband, wireline telecommunications capability
24 that enables end users to originate and receive high-quality
25 voice, data, graphics or video telecommunications using any
26 technology.

27 (220 ILCS 5/13-203.3 new)

28 Sec. 13-203.3. "Broadband service" means lines (or
29 wireless channels) that terminate at an end user location,
30 connect the end user to the Internet, and carry information at
31 the end user location at information transfer rates exceeding
32 200 kilobits per second ("kbps") in at least one direction.

1 (220 ILCS 5/13-203.4 new)

2 Sec. 13-203.4. "Information service" means the offering of
3 a capability for generating, acquiring, storing, transforming,
4 processing, retrieving, utilizing, or making available
5 information via telecommunications, and includes electronic
6 publishing, but does not include any use of any such capability
7 for the management, control, or operation of a
8 telecommunications system or the management of a
9 telecommunications service.

10 (220 ILCS 5/13-203.5 new)

11 Sec. 13-203.5. "Internet protocol ("IP") enabled service"
12 means services and applications relying on the Internet
13 Protocol family, including the digital communications
14 capabilities of increasingly higher speeds, which use a number
15 of transmission network technologies, and which generally have
16 in common the use of the Internet protocol.

17 (220 ILCS 5/13-203.6 new)

18 Sec. 13-203.6. "Customer premises equipment" means
19 equipment employed on the premises of a person (other than a
20 carrier) to originate, route, or terminate telecommunications.

21 (220 ILCS 5/13-204) (from Ch. 111 2/3, par. 13-204)

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

23 Sec. 13-204. "Local Exchange Telecommunications Service"
24 means telecommunications service between points within an
25 exchange, as defined in Section 13-206, or the provision of
26 telecommunications service for the origination or termination
27 of switched telecommunications services, but does not include
28 public mobile services.

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

30 (220 ILCS 5/13-204.5 new)

31 Sec. 13-204.5. "Intrastate switched access service" means
32 access to the switched network of a telecommunications carrier

1 for the purpose of originating or terminating communications
2 between points within the State of Illinois.

3 (220 ILCS 5/13-205) (from Ch. 111 2/3, par. 13-205)

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

5 Sec. 13-205. "Interexchange Telecommunications Service"
6 means telecommunications service between points in two or more
7 exchanges, but does not include public mobile services.

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

9 (220 ILCS 5/13-209) (from Ch. 111 2/3, par. 13-209)

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

11 Sec. 13-209. "Competitive Telecommunications Service"
12 means (i) a telecommunications service, its functional
13 equivalent or a substitute service, which, for some
14 identifiable class or group of customers in an exchange, group
15 of exchanges, or some other clearly defined geographical area,
16 is reasonably available from more than one provider, whether or
17 not such provider is a telecommunications carrier subject to
18 regulation under this Act or (ii) any other telecommunications
19 service classified as competitive under this Article. A
20 telecommunications service may be competitive for the entire
21 state, some geographical area therein, including an exchange or
22 set of exchanges, or for a specific customer or class or group
23 of customers, but only to the extent consistent with this
24 definition.

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

26 (220 ILCS 5/13-214) (from Ch. 111 2/3, par. 13-214)

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

28 Sec. 13-214. (a) "Public mobile services" means
29 air-to-ground radio telephone services, cellular radio
30 telecommunications services, offshore radio, rural radio
31 service, public land mobile telephone service, and commercial
32 mobile services, as defined in 47 U.S.C. Section 332(d)(1) and
33 ~~other common carrier radio communications services.~~

1 ~~(b) "Private radio services" means private land mobile~~
2 ~~radio services and other communications services characterized~~
3 ~~by the Commission as private radio services.~~

4 (Source: P.A. 85-1405.)

5 (220 ILCS 5/13-216)

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

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

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

17 (220 ILCS 5/13-301) (from Ch. 111 2/3, par. 13-301)

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

19 Sec. 13-301. Consistent with the findings and policy
20 established in paragraph (a) of Section 13-102 and paragraph
21 (a) of Section 13-103, and in order to ensure the attainment of
22 such policies, the Commission shall:

23 (a) participate in all federal programs intended to
24 preserve or extend universal telecommunications service,
25 unless such programs would place cost burdens on Illinois
26 customers of telecommunications services in excess of the
27 benefits they would receive through participation, provided,
28 however, the Commission shall not approve or permit the
29 imposition of any surcharge or other fee designed to subsidize
30 or provide a waiver for subscriber line charges; and shall
31 report on such programs together with an assessment of their
32 adequacy and the advisability of participating therein in its
33 annual report to the General Assembly, or more often as
34 necessary;

1 (b) establish a program to monitor the level of
2 telecommunications subscriber connection within each exchange
3 in Illinois, and shall report the results of such monitoring
4 and any actions it has taken or recommends be taken to maintain
5 and increase such levels in its annual report to the General
6 Assembly, or more often if necessary;

7 (c) (Blank); ~~order all telecommunications carriers~~
8 ~~offering or providing local exchange telecommunications~~
9 ~~service to propose low cost or budget service tariffs and any~~
10 ~~other rate design or pricing mechanisms designed to facilitate~~
11 ~~customer access to such telecommunications service, and shall~~
12 ~~after notice and hearing, implement any such proposals which it~~
13 ~~finds likely to achieve such purpose;~~

14 (d) investigate the necessity of and, if appropriate,
15 establish a universal service support fund from which local
16 exchange telecommunications carriers who pursuant to the
17 Twenty-Seventh Interim Order of the Commission in Docket No.
18 83-0142 or the orders of the Commission in Docket No. 97-0621
19 and Docket No. 98-0679 received funding and whose economic
20 costs of providing services for which universal service support
21 may be made available exceed the affordable rate established by
22 the Commission for such services may be eligible to receive
23 support, less any federal universal service support received
24 for the same or similar costs of providing the supported
25 services; provided, however, that if a universal service
26 support fund is established, the Commission shall require that
27 all costs of the fund be recovered from all local exchange and
28 interexchange telecommunications carriers certificated in
29 Illinois on a competitively neutral and nondiscriminatory
30 basis. In establishing any such universal service support fund,
31 the Commission shall, in addition to the determination of costs
32 for supported services, consider and make findings pursuant to
33 paragraphs (1), (2), and (4) of item (e) of this Section. Proxy
34 cost, as determined by the Commission, may be used for this
35 purpose. In determining cost recovery for any universal service
36 support fund, the Commission shall not permit recovery of such

1 costs from another certificated carrier for any service
2 purchased and used solely as an input to a service provided to
3 such certificated carrier's retail customers; and

4 (e) investigate the necessity of and, if appropriate,
5 establish a universal service support fund in addition to any
6 fund that may be established pursuant to item (d) of this
7 Section; provided, however, that if a telecommunications
8 carrier receives universal service support pursuant to item (d)
9 of this Section, that telecommunications carrier shall not
10 receive universal service support pursuant to this item.
11 Recipients of any universal service support funding created by
12 this item shall be "eligible" telecommunications carriers, as
13 designated by the Commission in accordance with 47 U.S.C.
14 214(e)(2). Eligible telecommunications carriers providing
15 local exchange telecommunications service may be eligible to
16 receive support for such services, less any federal universal
17 service support received for the same or similar costs of
18 providing the supported services. If a fund is established, the
19 Commission shall require that the costs of such fund be
20 recovered from all telecommunications carriers, with the
21 exception of public mobile service providers ~~wireless carriers~~
22 who are providers of two-way cellular telecommunications
23 service and who have not been designated as eligible
24 telecommunications carriers, on a competitively neutral and
25 non-discriminatory basis. In any order creating a fund pursuant
26 to this item, the Commission, after notice and hearing, shall:

27 (1) Define the group of services to be declared
28 "supported telecommunications services" that constitute
29 "universal service". This group of services shall, at a
30 minimum, include those services as defined by the Federal
31 Communications Commission and as from time to time amended.
32 In addition, the Commission shall consider the range of
33 services currently offered by telecommunications carriers
34 offering local exchange telecommunications service, the
35 existing rate structures for the supported
36 telecommunications services, and the telecommunications

1 needs of Illinois consumers in determining the supported
2 telecommunications services. The Commission shall, from
3 time to time or upon request, review and, if appropriate,
4 revise the group of Illinois supported telecommunications
5 services and the terms of the fund to reflect changes or
6 enhancements in telecommunications needs, technologies,
7 and available services.

8 (2) Identify all implicit subsidies contained in rates
9 or charges of incumbent local exchange carriers, including
10 all subsidies in interexchange access charges, and
11 determine how such subsidies can be made explicit by the
12 creation of the fund.

13 (3) Identify the incumbent local exchange carriers'
14 economic costs of providing the supported
15 telecommunications services.

16 (4) Establish an affordable price for the supported
17 telecommunications services for the respective incumbent
18 local exchange carrier. The affordable price shall be no
19 less than the rates in effect at the time the Commission
20 creates a fund pursuant to this item. The Commission may
21 establish and utilize indices or models for updating the
22 affordable price for supported telecommunications
23 services.

24 (5) Identify the telecommunications carriers from whom
25 the costs of the fund shall be recovered and the mechanism
26 to be used to determine and establish a competitively
27 neutral and non-discriminatory funding basis. From time to
28 time, or upon request, the Commission shall consider
29 whether, based upon changes in technology or other factors,
30 additional telecommunications providers should contribute
31 to the fund. The Commission shall establish the basis upon
32 which telecommunications carriers contributing to the fund
33 shall recover contributions on a competitively neutral and
34 non-discriminatory basis. In determining cost recovery for
35 any universal support fund, the Commission shall not permit
36 recovery of such costs from another certificated carrier

1 for any service purchased and used solely as an input to a
2 service provided to such certificated carriers' retail
3 customers.

4 (6) Approve a plan for the administration and operation
5 of the fund by a neutral third party consistent with the
6 requirements of this item.

7 No fund shall be created pursuant to this item until
8 existing implicit subsidies, including, but not limited to,
9 those subsidies contained in interexchange access charges,
10 have been identified and eliminated through revisions to rates
11 or charges. Prior to May 1, 2000, such revisions to rates or
12 charges to eliminate implicit subsidies shall occur
13 contemporaneously with any funding established pursuant to
14 this item. However, if the Commission does not establish a
15 universal service support fund by May 1, 2000, the Commission
16 shall not be prevented from entering an order or taking other
17 actions to reduce or eliminate existing subsidies as well as
18 considering the effect of such reduction or elimination on
19 local exchange carriers.

20 Any telecommunications carrier providing local exchange
21 telecommunications service which offers to its local exchange
22 customers a choice of two or more local exchange
23 telecommunications service offerings to residential end users
24 shall provide annually to its residential end users, or post on
25 its website, a list of its local exchange telecommunications
26 service offerings available to its residential end users, to
27 ~~any such customer requesting it, once a year without charge, a~~
28 ~~report describing which local exchange telecommunications~~
29 ~~service offering would result in the lowest bill for such~~
30 ~~customer's local exchange service, based on such customer's~~
31 ~~calling pattern and usage for the previous 6 months. At least~~
32 ~~once a year, each such carrier shall provide a notice to each~~
33 ~~of its local exchange telecommunications service customers~~
34 ~~describing the availability of this report and the specific~~
35 ~~procedures by which customers may receive it. Such report shall~~
36 ~~only be available to current and future customers who have~~

1 ~~received at least 6 months of continuous local exchange service~~
2 ~~from such carrier.~~

3 (Source: P.A. 91-636, eff. 8-20-99.)

4 (220 ILCS 5/13-305)

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

6 Sec. 13-305. Amount of civil penalty. A telecommunications
7 carrier, any corporation other than a telecommunications
8 carrier, or any person acting as a telecommunications carrier
9 that violates or fails to comply with any provisions of this
10 Act or that fails to obey, observe, or comply with any order,
11 decision, rule, regulation, direction, or requirement, or any
12 part or provision thereof, of the Commission, made or issued
13 under authority of this Act, in a case in which a civil penalty
14 is not otherwise provided for in this Act, but excepting
15 Section 5-202 of the Act, shall be subject to a civil penalty
16 imposed in the manner provided in Section 13-304 of no more
17 than \$30,000 or 0.00825% of the carrier's gross intrastate
18 annual telecommunications revenue, whichever is greater, for
19 each offense unless the violator has fewer than 35,000
20 subscriber access lines, in which case the civil penalty may
21 not exceed \$2,000 for each offense.

22 Notwithstanding any other provision of this Section or
23 Article, if any telecommunications carrier subject to an
24 alternative form of regulation plan that was adopted by the
25 Commission prior to the effective date of this amendatory Act
26 of the 94th General Assembly violates the retail service
27 quality rules promulgated by the Commission pursuant to Section
28 13-712 or pursuant to such alternative form of regulation plan,
29 the Commission may impose, for any such violation by such
30 telecommunications carrier, maximum civil penalties of up to
31 \$33,000 or 0.00908% of such telecommunications carrier's gross
32 intrastate annual telecommunications revenue, whichever is
33 greater. This provision for a violation by a telecommunications
34 carrier subject to an alternative form of regulation plan as of
35 the effective date of this amendatory Act of the 94th General

1 Assembly shall remain in force and effect through July 1, 2008.

2 A telecommunications carrier subject to administrative
3 penalties resulting from a final Commission order approving an
4 intercorporate transaction entered pursuant to Section 7-204
5 of this Act shall be subject to penalties under this Section
6 imposed for the same conduct only to the extent that such
7 penalties exceed those imposed by the final Commission order.

8 Every violation of the provisions of this Act or of any
9 order, decision, rule, regulation, direction, or requirement
10 of the Commission, or any part or provision thereof, by any
11 corporation or person, is a separate and distinct offense.
12 Penalties under this Section shall attach and begin to accrue
13 from the day after written notice is delivered to such party or
14 parties that they are in violation of or have failed to comply
15 with this Act or an order, decision, rule, regulation,
16 direction, or requirement of the Commission, or part or
17 provision thereof. In case of a continuing violation, each
18 day's continuance thereof shall be a separate and distinct
19 offense.

20 In construing and enforcing the provisions of this Act
21 relating to penalties, the act, omission, or failure of any
22 officer, agent, or employee of any telecommunications carrier
23 or of any person acting within the scope of his or her duties
24 or employment shall in every case be deemed to be the act,
25 omission, or failure of such telecommunications carrier or
26 person.

27 If the party who has violated or failed to comply with this
28 Act or an order, decision, rule, regulation, direction, or
29 requirement of the Commission, or any part or provision
30 thereof, fails to seek timely review pursuant to Sections
31 10-113 and 10-201 of this Act, the party shall, upon expiration
32 of the statutory time limit, be subject to the civil penalty
33 provision of this Section.

34 Twenty percent of all moneys collected under this Section
35 shall be deposited into the Digital Divide Elimination Fund and
36 20% of all moneys collected under this Section shall be

1 deposited into the Digital Divide Elimination Infrastructure
2 Fund.

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

4 (220 ILCS 5/13-400 new)

5 Sec. 13-400. Commission jurisdiction prohibited.

6 (a) The Commission shall not exercise jurisdiction over:

7 (1) advanced services, as defined in Section 13-203.2;

8 (2) broadband service, as defined in Section 13-203.3;

9 (3) any retail service not commercially available on
10 the effective date of this amendatory Act of the 94th
11 General Assembly;

12 (4) information services, as defined in Section
13 13-203.4;

14 (5) Internet protocol ("IP") enabled services, as
15 defined in Section 13-203.5; and

16 (6) customer premises equipment, as defined in Section
17 13-203.6.

18 (b) Notwithstanding the provisions of subsection (a), the
19 Commission shall have jurisdiction to the extent that it has
20 been specifically delegated to the Commission by the
21 Telecommunications Act of 1996 or any successors or amendments
22 thereof or by orders of and regulations promulgated by the
23 Federal Communications Commission.

24 (220 ILCS 5/13-401) (from Ch. 111 2/3, par. 13-401)

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

26 Sec. 13-401. Certificate of Service Authority.

27 (a) No telecommunications carrier not possessing a
28 certificate of public convenience and necessity or certificate
29 of authority from the Commission at the time this Article goes
30 into effect shall transact any business in this State until it
31 shall have obtained a certificate of service authority from the
32 Commission pursuant to the provisions of this Article.

33 No telecommunications carrier offering or providing, or
34 seeking to offer or provide, any interexchange

1 telecommunications service shall do so until it has applied for
2 and received a Certificate of Interexchange Service Authority
3 pursuant to the provisions of Section 13-403. No
4 telecommunications carrier offering or providing, or seeking
5 to offer or provide, any local exchange telecommunications
6 service shall do so until it has applied for and received a
7 Certificate of Exchange Service Authority pursuant to the
8 provisions of Section 13-405.

9 Notwithstanding Sections 13-403, 13-404, and 13-405, the
10 Commission shall approve a cellular radio application for a
11 Certificate of Service Authority without a hearing upon a
12 showing by the cellular applicant that the Federal
13 Communications Commission has issued to it a construction
14 permit or an operating license to construct or operate a
15 cellular radio system in the area as defined by the Federal
16 Communications Commission, or portion of the area, for which
17 the carrier seeks a Certificate of Service Authority.

18 No Certificate of Service Authority issued by the
19 Commission shall be construed as granting a monopoly or
20 exclusive privilege, immunity or franchise. The issuance of a
21 Certificate of Service Authority to any telecommunications
22 carrier shall not preclude the Commission from issuing
23 additional Certificates of Service Authority to other
24 telecommunications carriers providing the same or equivalent
25 service or serving the same geographical area or customers as
26 any previously certified carrier, ~~except to the extent~~
27 ~~otherwise provided by Sections 13-403 and 13-405.~~

28 Any certificate of public convenience and necessity
29 granted by the Commission to a telecommunications carrier prior
30 to the effective date of this Article shall remain in full
31 force and effect, and such carriers need not apply for a
32 Certificate of Service Authority in order to continue offering
33 or providing service to the extent authorized in such
34 certificate of public convenience and necessity. Any such
35 carrier, however, prior to substantially altering the nature or
36 scope of services provided under a certificate of public

1 convenience and necessity, or adding or expanding services
2 beyond the authority contained in such certificate, must apply
3 for a Certificate of Service Authority for such alterations or
4 additions pursuant to the provisions of this Article.

5 The Commission shall review and modify the terms of any
6 certificate of public convenience and necessity issued to a
7 telecommunications carrier prior to the effective date of this
8 Article in order to ensure its conformity with the requirements
9 and policies of this Article. Any Certificate of Service
10 Authority may be altered or modified by the Commission, after
11 notice and hearing, upon its own motion or upon application of
12 the person or company affected. Unless exercised within a
13 period of two years from the issuance thereof, authority
14 conferred by a Certificate of Service Authority shall be null
15 and void.

16 (b) The Commission may issue a temporary Certificate which
17 shall remain in force not to exceed one year in cases of
18 emergency, to assure maintenance of adequate service or to
19 serve particular customers, without notice and hearing,
20 pending the determination of an application for a Certificate,
21 and may by regulation exempt from the requirements of this
22 Section temporary acts or operations for which the issuance of
23 a certificate is not necessary in the public interest and which
24 will not be required therefor.

25 (Source: P.A. 87-856.)

26 (220 ILCS 5/13-403) (from Ch. 111 2/3, par. 13-403)

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

28 Sec. 13-403. Interexchange service authority; approval.
29 The Commission shall approve an application for a Certificate
30 of Interexchange Service Authority only upon a showing by the
31 applicant, and a finding by the Commission, after notice and
32 hearing, that the applicant possesses sufficient technical,
33 financial and managerial resources and abilities to provide
34 interexchange telecommunications service. ~~The removal from~~
35 ~~this Section of the dialing restrictions by this amendatory Act~~

~~of 1992 does not create any legislative presumption for or against intra-Market Service Area presubscription or changes in intra-Market Service Area dialing arrangements related to the implementation of that presubscription, but simply vests jurisdiction in the Illinois Commerce Commission to consider after notice and hearing the issue of presubscription in accordance with the policy goals outlined in Section 13-103.~~

The Commission shall have authority to alter the boundaries of Market Service Areas when such alteration is consistent with the public interest and the purposes and policies of this Article. ~~A determination by the Commission with respect to Market Service Area boundaries shall not modify or affect the rights or obligations of any telecommunications carrier with respect to any consent decree or agreement with the United States Department of Justice, including, but not limited to, the Modification of Final Judgment in United States v. Western Electric Co., 552 F. Supp. 131 (D.D.C. 1982), as modified from time to time.~~

(Source: P.A. 91-357, eff. 7-29-99.)

(220 ILCS 5/13-406) (from Ch. 111 2/3, par. 13-406)

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

Sec. 13-406. No telecommunications carrier offering or providing noncompetitive telecommunications service pursuant to a valid Certificate of Service Authority or certificate of public convenience and necessity or price-capped competitive telecommunications service pursuant to subsection (b) of 13-506.1 shall discontinue or abandon such service once initiated until and unless it shall demonstrate, and the Commission finds, after notice and hearing, that such discontinuance or abandonment will not deprive customers of any necessary or essential telecommunications service or access thereto and is not otherwise contrary to the public interest. No telecommunications carrier offering or providing competitive telecommunications service shall discontinue or abandon such service once initiated except upon 30 days notice

1 to the Commission and affected customers. ~~The Commission may,~~
2 ~~upon its own motion or upon complaint, investigate the proposed~~
3 ~~discontinuance or abandonment of a competitive~~
4 ~~telecommunications service and may, after notice and hearing,~~
5 ~~prohibit such proposed discontinuance or abandonment if the~~
6 ~~Commission finds that it would be contrary to the public~~
7 ~~interest.~~

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

9 (220 ILCS 5/13-407) (from Ch. 111 2/3, par. 13-407)

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

11 Sec. 13-407. Commission study and report. The Commission
12 shall monitor and analyze patterns of entry and exit and
13 changes in patterns of entry and exit for each relevant market
14 for telecommunications services, including ~~emerging~~ high speed
15 telecommunications markets and all services defined in
16 Sections 13-203.2, 13-203.3, 13-203.4, and 13-203.5, and shall
17 include its findings together with appropriate recommendations
18 for legislative action in its annual report to the General
19 Assembly.

20 The Commission shall also monitor and analyze the status of
21 deployment of services to consumers, and any resulting "digital
22 divisions" between consumers, including any changes or trends
23 therein. The Commission shall include its findings together
24 with appropriate recommendations for legislative action in its
25 annual report to the General Assembly. In preparing this
26 analysis the Commission shall evaluate information provided by
27 telecommunications carriers that pertains to the state of
28 competition in telecommunications markets including, but not
29 limited to:

30 (1) the number and type of firms providing
31 communications telecommunications services, including the
32 services defined in Sections 13-203.2, 13-203.3, and
33 13-203.5 ~~broadband telecommunications~~ services, within the
34 State;

35 (2) the communications telecommunications services

1 offered by these firms to both retail and wholesale
2 customers;

3 (3) the extent to which customers and other providers
4 are purchasing the firms' communications
5 ~~telecommunications~~ services;

6 (4) the technologies or methods by which these firms
7 provide these services, including descriptions of
8 technologies in place and under development, and the degree
9 to which firms rely on other ~~wholesale~~ providers to provide
10 service to their own customers; and

11 (5) the ~~tariffed retail and wholesale~~ prices for
12 services provided by these firms.

13 The Commission shall at a minimum assess the variability in
14 this information according to geography, examining variability
15 by exchange, wirecenter, or zip code, and by customer class,
16 examining, at a minimum, the variability between residential
17 and small, medium, and large business customers. The Commission
18 shall provide an analysis of market trends by collecting this
19 information from firms providing communications
20 ~~telecommunications~~ services within the State. The Commission
21 shall also collect all information, in a format determined by
22 the Commission, that the Commission deems necessary to assist
23 in monitoring and analyzing the communications
24 ~~telecommunications~~ markets and the status of competition and
25 deployment of communications ~~telecommunications~~ services to
26 consumers in the State.

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

28 (220 ILCS 5/13-501) (from Ch. 111 2/3, par. 13-501)

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

30 Sec. 13-501. Tariff; filing.

31 (a) No telecommunications carrier shall offer or provide
32 telecommunications service to a residential end user unless and
33 until a tariff is filed with the Commission which describes the
34 nature of the service, applicable rates and other charges,
35 terms and conditions of service, and the exchange, exchanges or

1 other geographical area or areas in which the service shall be
2 offered or provided. The Commission may prescribe the form of
3 such tariff regarding a telecommunications service offered or
4 provided to a residential end user and any additional data or
5 information which shall be included therein. A
6 telecommunications carrier that offers or provides a
7 telecommunications service to business end users may file a
8 tariff with the Commission that describes the nature of the
9 service, applicable rates and other charges, terms and
10 conditions of service, and the exchange, exchanges or other
11 geographical area or areas in which the service will be offered
12 or provided.

13 (b) After a hearing on noncompetitive services or a hearing
14 pursuant to subsection (d) of Section 13-505 for competitive
15 services, the Commission has the discretion to impose an
16 interim or permanent tariff on a telecommunications carrier as
17 part of the order in the case. When a tariff is imposed as part
18 of the order in a case, the tariff shall remain in full force
19 and effect until a compliance tariff, or superseding tariff, is
20 filed by the telecommunications carrier and, after notice to
21 the parties in the case and after a compliance hearing is held,
22 is found by the Commission to be in compliance with the
23 Commission's order.

24 (c) Nothing in this Section shall be construed to require a
25 telecommunications carrier to tariff special equipment and
26 service arrangements when provided to meet the unique
27 telecommunications services requirements of a small number of
28 customers.

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

30 (220 ILCS 5/13-502) (from Ch. 111 2/3, par. 13-502)

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

32 Sec. 13-502. Classification of services.

33 (a) All telecommunications services offered or provided
34 under tariff by telecommunications carriers shall be
35 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 whether
6 the service to be offered or provided is competitive or
7 noncompetitive.

8 (a-5) All telecommunications services offered or provided
9 by any telecommunications carrier, including, without
10 limitation, all existing or future telecommunications
11 services, facilities, features, or functionalities, shall be
12 classified as competitive as of the effective date of this
13 amendatory Act of the 94th General Assembly without further
14 Commission review, except as provided in this subsection. The
15 competitive classification provided in this subsection shall
16 apply to the telecommunications services offered or provided by
17 any telecommunications carrier that, on or after the effective
18 date of this amendatory Act of the 94th General Assembly, has
19 entered into an approved interconnection agreement with one or
20 more unaffiliated competitive carriers as a result of
21 negotiations or arbitrations, pursuant to the provisions of
22 Section 251 of the federal Telecommunications Act of 1996 or
23 any successors or amendments thereof.

24 (b) For a telecommunications carrier that has not entered
25 into an approved interconnection agreement in accordance with
26 subsection (a-5), a ~~A~~ service shall be classified as
27 competitive only if, and only to the extent that, for some
28 identifiable class or group of customers in an exchange, group
29 of exchanges, or some other clearly defined geographical area,
30 such service, or its functional equivalent, or a substitute
31 service, is reasonably available from more than one provider,
32 whether or not any such provider is a telecommunications
33 carrier subject to regulation under this Act. All
34 telecommunications services not properly classified as
35 competitive shall be classified as noncompetitive. The
36 Commission shall have the power to investigate the propriety of

1 any classification of a telecommunications service on its own
2 motion and shall investigate upon complaint. In any hearing or
3 investigation, the burden of proof as to the proper
4 classification of any service shall rest upon the
5 telecommunications carrier providing the service. After notice
6 and hearing, the Commission shall order the proper
7 classification of any service in whole or in part. The
8 Commission shall make its determination and issue its final
9 order no later than 180 days from the date such hearing or
10 investigation is initiated. If the Commission enters into a
11 hearing upon complaint and if the Commission fails to issue an
12 order within that period, the complaint shall be deemed granted
13 unless the Commission, the complainant, and the
14 telecommunications carrier providing the service agree to
15 extend the time period.

16 (c) In determining whether a service should be reclassified
17 as competitive for carriers subject to subsection (b), the
18 Commission shall, at a minimum, consider the following factors:

19 (1) the number, size, and geographic distribution of
20 other providers of the service;

21 (2) the availability of functionally equivalent
22 services in the relevant geographic area and the ability of
23 telecommunications carriers or other persons to make the
24 same, equivalent, or substitutable service readily
25 available in the relevant market at comparable rates,
26 terms, and conditions;

27 (3) the existence of economic, technological, or any
28 other barriers to entry into, or exit from, the relevant
29 market;

30 (4) the extent to which other telecommunications
31 companies must rely upon the service of another
32 telecommunications carrier to provide telecommunications
33 service; and

34 (5) any other factors that may affect competition and
35 the public interest that the Commission deems appropriate.

36 (d) No tariff classifying a new telecommunications service

1 as competitive or reclassifying a previously noncompetitive
2 telecommunications service as competitive, which is filed by a
3 telecommunications carrier subject to subsection (b) which
4 also offers or provides noncompetitive telecommunications
5 service, shall be effective unless and until such
6 telecommunications carrier offering or providing, or seeking
7 to offer or provide, such proposed competitive service prepares
8 and files a study of the long-run service incremental cost
9 underlying such service and demonstrates that the tariffed
10 rates and charges for the service and any relevant group of
11 services that includes the proposed competitive service and for
12 which resources are used in common solely by that group of
13 services are not less than the long-run service incremental
14 cost of providing the service and each relevant group of
15 services. Such study shall be given proprietary treatment by
16 the Commission at the request of such carrier if any other
17 provider of the competitive service, its functional
18 equivalent, or a substitute service in the geographical area
19 described by the proposed tariff has not filed, or has not been
20 required to file, such a study.

21 (e) In the event any telecommunications service has been
22 classified and filed as competitive by the telecommunications
23 carrier, and has been offered or provided on such basis, and
24 the Commission subsequently determines after investigation
25 that such classification improperly included services which
26 were in fact noncompetitive, the Commission shall have the
27 power to determine and order refunds to customers for any
28 overcharges which may have resulted from the improper
29 classification, or to order such other remedies provided to it
30 under this Act, or to seek an appropriate remedy or relief in a
31 court of competent jurisdiction. This subsection (e) does not
32 apply to any telecommunications services that have been
33 classified as competitive pursuant to subsection (a-5).

34 (f) If no hearing or investigation regarding the propriety
35 of a competitive classification of a telecommunications
36 service is initiated within 180 days after a telecommunications

1 carrier files a tariff listing such telecommunications service
2 as competitive, no refunds to customers for any overcharges
3 which may result from an improper classification shall be
4 ordered for the period from the time the telecommunications
5 carrier filed such tariff listing the service as competitive up
6 to the time an investigation of the service classification is
7 initiated by the Commission's own motion or the filing of a
8 complaint. Where a hearing or an investigation regarding the
9 propriety of a telecommunications service classification as
10 competitive is initiated after 180 days from the filing of the
11 tariff, the period subject to refund for improper
12 classification shall begin on the date such investigation or
13 hearing is initiated by the filing of a Commission motion or a
14 complaint. This subsection (f) does not apply to any
15 telecommunications services that have been classified as
16 competitive pursuant to subsection (a-5).

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

18 (220 ILCS 5/13-504) (from Ch. 111 2/3, par. 13-504)

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

20 Sec. 13-504. Application of ratemaking provisions of
21 Article IX.

22 (a) Except where the context clearly renders such
23 provisions inapplicable, the ratemaking provisions of Article
24 IX of this Act relating to public utilities are fully and
25 equally applicable to the rates, charges, tariffs and
26 classifications for the offer or provision of noncompetitive
27 telecommunications services. However, the ratemaking
28 provisions do not apply to any proposed change in rates or
29 charges, any proposed change in any classification or tariff
30 resulting in a change in rates or charges, or the establishment
31 of new services and rates therefor for a noncompetitive local
32 exchange telecommunications service offered or provided by a
33 local exchange telecommunications carrier with no more than
34 35,000 subscriber access lines. Proposed changes in rates,
35 charges, classifications, or tariffs meeting these criteria

1 shall be permitted upon the filing of the proposed tariff and
2 30 days notice to the Commission and all potentially affected
3 customers. The proposed changes shall not be subject to
4 suspension. The Commission shall investigate whether any
5 proposed change is just and reasonable only if a
6 telecommunications carrier that is a customer of the local
7 exchange telecommunications carrier or 10% of the potentially
8 affected access line subscribers of the local exchange
9 telecommunications carrier shall file a petition or complaint
10 requesting an investigation of the proposed changes. When the
11 telecommunications carrier or 10% of the potentially affected
12 access line subscribers of a local exchange telecommunications
13 carrier file a complaint, the Commission shall, after notice
14 and hearing, have the power and duty to establish the rates,
15 charges, classifications, or tariffs it finds to be just and
16 reasonable.

17 (b) Subsection (c) of Section 13-502 and Sections 13-505.1,
18 ~~13-505.4, 13-505.6,~~ and 13-507 of this Article do not apply to
19 rates or charges or proposed changes in rates or charges for
20 applicable competitive or interexchange services when offered
21 or provided by a local exchange telecommunications carrier with
22 no more than 35,000 subscriber access lines. In addition,
23 Sections 13-514, 13-515, and 13-516 do not apply to
24 telecommunications carriers with no more than 35,000
25 subscriber access lines. The Commission may require
26 telecommunications carriers with no more than 35,000
27 subscriber access lines to furnish information that the
28 Commission deems necessary for a determination that rates and
29 charges for any competitive telecommunications service are
30 just and reasonable.

31 (c) For a local exchange telecommunications carrier with no
32 more than 35,000 access lines, the Commission shall consider
33 and adjust, as appropriate, a local exchange
34 telecommunications carrier's depreciation rates only in
35 ratemaking proceedings.

36 (d) Article VI and ~~Sections 7-101 and 7-102 of~~ Article VII

1 of this Act pertaining to public utilities, public utility
2 rates and services, and the regulation thereof are not
3 applicable to local exchange telecommunication carriers with
4 no more than 35,000 subscriber access lines.

5 (Source: P.A. 89-139, eff. 1-1-96; 90-185, eff. 7-23-97.)

6 (220 ILCS 5/13-505) (from Ch. 111 2/3, par. 13-505)

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

8 Sec. 13-505. Price Rate changes and cost studies,
9 ~~competitive services.~~

10 (a) Any ~~proposed~~ increase or decrease in rates or charges,
11 or proposed change in any classification or tariff resulting in
12 an increase or decrease in rates or charges, for a competitive
13 telecommunications service shall be effective ~~permitted~~ upon
14 the filing of the proposed rate, charge, classification, or
15 tariff. Prior notice of an increase shall be given to all
16 potentially affected customers by mail, publication in a
17 newspaper of general circulation, or equivalent means of
18 notice.

19 (b) Notwithstanding any of the other provisions in Section
20 9-201 or Section 13-504, as applicable, any proposed increase
21 or decrease in the rates or charges of non-competitive
22 telecommunications services shall be effective 15 days after
23 filing with the Commission. Prior notice of an increase or
24 decrease shall be given to all potentially affected customers
25 by mail, publication in a newspaper of general circulation, or
26 equivalent means of notice. ~~If a hearing is held pursuant to~~
27 ~~Section 9-250 regarding the reasonableness of an increase in~~
28 ~~the rates or charges of a competitive local exchange service,~~
29 ~~then the telecommunications carrier providing the service~~
30 ~~shall have the burden of proof to establish the justness and~~
31 ~~reasonableness of the proposed rate or charge.~~

32 (c) The Commission shall not require a cost study to be
33 filed for the following: (i) any statutory reclassification of
34 a service pursuant to subsection (a-5) of Section 13-502 of
35 this Article; (ii) any price increase for any competitive or

1 noncompetitive telecommunications service; (iii) any retail
2 service package filed pursuant to Section 13-518.1 or any price
3 increase or decrease to such service package; or (iv) any new
4 retail service offering, including new or revised features and
5 functionalities of an existing service.

6 (d) For price changes other than those described in
7 subsection (c) above, no cost study shall be required unless:

8 (i) upon the written complaint to the Commission by a
9 telecommunications carrier that offers a competing
10 telecommunications service to the telecommunications service
11 for which the price is being changed; and (ii) if the
12 Commission has a reasonable basis to believe that the changed
13 price for such telecommunications service may not exceed the
14 long-run service incremental cost of such service, the
15 Commission shall provide notice in writing to the
16 telecommunications carrier offering such service of the basis
17 for that belief. The telecommunications carrier shall respond
18 in writing within 21 days and shall indicate whether the price
19 exceeds long-run service incremental cost or whether that price
20 is being offered to meet an offer to end users by a competing
21 telecommunications carrier or to meet an offer made to a former
22 end user that has accepted an offer for that service from a
23 competing telecommunications carrier. If the
24 telecommunications carrier responds that the price is being
25 offered to meet the price of a competitor, then the
26 telecommunications carrier shall provide the price being
27 offered by the competitor and a description of the product or
28 service being provided by the competitor at that price. The
29 Commission shall not take any further regulatory action if the
30 telecommunications carrier demonstrates that the price is
31 being offered to meet an offer to end users by a competing
32 telecommunications carrier or to meet an offer made to a former
33 end user that has accepted an offer for that service from a
34 competing telecommunications carrier. If, after receiving the
35 telecommunications carrier's response, the Commission has a
36 reasonable basis to conclude that the disputed price does not

1 exceed the long-run service incremental cost of such service
2 and that the price is not being offered to meet an offer to end
3 users by a competing telecommunications carrier or to a former
4 end user that has accepted an offer for that service from a
5 competing telecommunications carrier, the Commission may
6 initiate a proceeding to investigate the reasonableness of the
7 price. The telecommunications carrier shall provide a cost
8 study to the Commission within 28 days of a request made by the
9 Commission during such proceeding. If, after notice and
10 hearing, the Commission determines that such disputed price
11 does not exceed the long-run service incremental cost of such
12 service and that the price is not being offered in response to
13 an offer to end users by a competing telecommunications carrier
14 or to a former end user that has accepted an offer for that
15 service from a competing telecommunications carrier, it shall
16 order the telecommunications carrier to adjust such disputed
17 price so that the revised price recovers the long-run service
18 incremental cost of such service.

19 (c) Nothing in this Section shall be construed to limit any
20 telecommunications carrier's ability to bring an action under
21 other applicable law.

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

23 (220 ILCS 5/13-506)

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

25 Sec. 13-506. Tariffs for competitive telecommunications
26 services.

27 (a) Telecommunications carriers may file ~~proposed~~ tariffs
28 for any competitive telecommunications service which includes
29 and specifically describes a range, band, formula, or standard
30 within which or by which a change in rates or charges for such
31 telecommunications service could be made without prior notice
32 ~~or prior Commission approval, provided that any and all rates~~
33 ~~or charges within the band or range, or determinable by the~~
34 ~~operation of the formula or standard, are consistent with the~~
35 ~~public interest and the purpose and policies of this Article~~

1 ~~and Act, and are likely to remain so for the foreseeable~~
2 ~~future. To the extent any proposed band or range encompasses~~
3 ~~rates or charges which are not consistent with the public~~
4 ~~interest and the purposes and policies of this Article and Act~~
5 ~~or otherwise fully proper, or any proposed formula or standard~~
6 ~~determines rates or charges which are not consistent with the~~
7 ~~purposes and policies of this Article and Act or otherwise~~
8 ~~fully proper, the Commission after notice and hearing shall~~
9 ~~have the power to modify the level, scope, or limits of such~~
10 ~~band or range, and to modify or limit the operation of such~~
11 ~~formula or standard, as necessary, to ensure that rates or~~
12 ~~charges resulting therefrom are consistent with the purposes~~
13 ~~and policies of this Article and Act and fully proper, and~~
14 ~~likely to remain so in the foreseeable future.~~

15 (b) (Blank). ~~The Commission may require a~~
16 ~~telecommunications carrier to file a variable tariff as~~
17 ~~described in paragraph (a) for any or all competitive~~
18 ~~telecommunications services which are offered or provided by~~
19 ~~such carrier, if the Commission finds, after notice and~~
20 ~~hearing, that the determination of rates or charges for such~~
21 ~~service by a tariff would improve the Commission's ability to~~
22 ~~effectively regulate such rates or charges and that such~~
23 ~~improvement is required by the public interest. Any such tariff~~
24 ~~required by the Commission shall be approved only if it is also~~
25 ~~consistent with the provisions of paragraph (a) of this~~
26 ~~Section.~~

27 (c) After a tariff filed pursuant to this Section becomes
28 effective, the telecommunications carrier shall determine the
29 rates and charges for services according to the provisions
30 thereof.

31 (Source: P.A. 90-185, eff. 7-23-97; 90-574, eff. 3-20-98;
32 90-655, eff. 7-30-98.)

33 (220 ILCS 5/13-506.1) (from Ch. 111 2/3, par. 13-506.1)

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

35 Sec. 13-506.1. Alternative form ~~forms~~ of regulation ~~for~~

1 ~~noncompetitive services.~~

2 (a) In addition to the provisions of this Article, the
3 services classified as competitive pursuant to subsection
4 (a-5) of Section 13-502 of this Article under this amendatory
5 Act of the 94th General Assembly and offered or provided by any
6 qualifying telecommunications carrier, as defined in this
7 Section, shall also be subject to the ratemaking provisions of
8 Article IX or Section 13-504, as applicable, unless the carrier
9 offering the competitively classified services elects to be
10 subject to the provisions of this Section. ~~Notwithstanding any~~
11 ~~of the ratemaking provisions of this Article or Article IX that~~
12 ~~are deemed to require rate of return regulation, the~~ Upon
13 providing notice to the Commission pursuant to subsection (b),
14 a qualifying telecommunications carrier shall be subject to ~~may~~
15 ~~implement an~~ alternative form ~~forms~~ of regulation in the form
16 of a rate moratorium plan, as defined in this Section, which is
17 hereinafter referred to as the basic dial tone protection plan.
18 ~~in order to establish just and reasonable rates for~~
19 ~~noncompetitive telecommunications services including, but not~~
20 ~~limited to, price regulation, earnings sharing, rate~~
21 ~~moratoria, or a network modernization plan. The Commission is~~
22 ~~authorized to adopt different forms of regulation to fit the~~
23 ~~particular characteristics of different telecommunications~~
24 ~~carriers and their service areas.~~

25 The General Assembly finds and declares that such a basic
26 dial tone protection plan meets ~~In addition to~~ the public
27 policy goals declared in Section 13-103 and the goals of this
28 Section to: ~~the Commission shall consider, in determining the~~
29 ~~appropriateness of any alternative form of regulation, whether~~
30 ~~it will:~~

31 (1) recognize the significant level of retail
32 competition in the communications industry and the
33 convergence of technologies; ~~reduce regulatory delay and~~
34 ~~costs over time;~~

35 (2) adopt a more appropriate form of regulation;

36 (3) ~~(2)~~ encourage innovation in services;

- 1 (4) ~~(3)~~ promote efficiency;
- 2 (5) ~~(4)~~ facilitate the broad dissemination of
- 3 technical improvements to all end users ~~classes of~~
- 4 ~~ratepayers~~;
- 5 (6) ~~(5)~~ enhance economic development of the State; ~~and~~
- 6 (7) ~~(6)~~ provide for market-based pricing of retail
- 7 telecommunications services in a competitive
- 8 communications environment. ~~fair, just, and reasonable~~
- 9 ~~rates.~~

10 ~~(b) A telecommunications carrier providing noncompetitive~~

11 ~~telecommunications services may petition the Commission to~~

12 ~~regulate the rates or charges of its noncompetitive services~~

13 ~~under an alternative form of regulation. The~~

14 ~~telecommunications carrier shall submit with its petition its~~

15 ~~plan for an alternative form of regulation. The Commission~~

16 ~~shall review and may modify or reject the carrier's proposed~~

17 ~~plan. The Commission also may initiate consideration of~~

18 ~~alternative forms of regulation for a telecommunications~~

19 ~~carrier on its own motion. The Commission may approve the plan~~

20 ~~or modified plan and authorize its implementation only if it~~

21 ~~finds, after notice and hearing, that the plan or modified plan~~

22 ~~at a minimum:~~

23 The General Assembly further finds that such a plan:

- 24 (1) is in the public interest;
- 25 ~~(2) will produce fair, just, and reasonable rates for~~
- 26 ~~telecommunications services;~~
- 27 ~~(3) responds to changes in technology and the structure~~
- 28 ~~of the telecommunications industry that are, in fact,~~
- 29 ~~occurring;~~
- 30 ~~(4) constitutes a more appropriate form of regulation~~
- 31 ~~based on the Commission's overall consideration of the~~
- 32 ~~policy goals set forth in Section 13-103 and this Section;~~
- 33 ~~(5) specifically identifies how ratepayers will~~
- 34 ~~benefit from any efficiency gains, cost savings arising out~~
- 35 ~~of the regulatory change, and improvements in productivity~~
- 36 ~~due to technological change;~~

1 (2) ~~(6)~~ will maintain the quality and availability of
2 retail telecommunications services; and

3 (3) ~~(7)~~ will not unduly or unreasonably prejudice or
4 disadvantage any particular customer class, including
5 non-qualifying telecommunications carriers.

6 (b) Any qualifying telecommunications carrier may elect to
7 be governed under a rate moratorium alternative form of
8 regulation that consists of the provisions contained in the
9 provisions of this subsection (b) upon providing notice to the
10 Commission that it elects to do so. A rate moratorium
11 alternative form of regulation plan that contains the
12 provisions of this subsection (b) shall become effective 30
13 days after notice is provided by any qualifying
14 telecommunications carrier to the Commission. During that 30
15 day period, the qualifying telecommunications carrier shall
16 remain subject to the form of regulation that it was under on
17 the date that it provided notice to the Commission. The rate
18 moratorium alternative form of regulation plan authorized by
19 this subsection (b) shall consist of the following provisions:

20 (1) All price-capped competitive telecommunications
21 services, as defined in this Section, offered or provided
22 by any qualifying telecommunications carrier shall be
23 included in the basic dial tone protection plan. All other
24 competitive telecommunications services shall be excluded
25 from such plan.

26 (2) The rates for price-capped competitive
27 telecommunications services shall not exceed the rates
28 that the telecommunications carrier charged for those
29 services on February 1, 2005; this restriction upon the
30 rates of such price-capped competitive telecommunications
31 services shall remain in full force and effect through July
32 1, 2008; provided, however, that nothing shall be construed
33 to prohibit reduction of those rates;

34 (3) Notwithstanding any other provision in this
35 Section or Article, a telecommunications carrier that
36 elects to be subject to a dial tone protection plan

1 pursuant to this Section shall continue to offer the
2 price-capped competitive telecommunications services at
3 all times through July 1, 2008;

4 (4) Notwithstanding any other provision in this
5 Section or Article, any residential end user may elect to
6 purchase price-capped competitive telecommunications
7 service at any time through July 1, 2008 and, to the extent
8 that such residential end user elects to change service
9 from a retail service package not subject to such dial tone
10 protection plan to price-capped competitive
11 telecommunications service, any applicable termination
12 provisions of the retail service package shall apply, but
13 only if such residential end user has been clearly informed
14 of the existence of any term and termination fees at the
15 time such residential end user ordered such service
16 package; and

17 (5) No other terms from any plan adopted under prior
18 Commission authority shall be required under subsection
19 (b), except to the extent set forth in Section 13-712
20 (e-10) regarding retail service quality measures,
21 exclusions, calculations, and standards for any
22 telecommunications carrier subject to an alternative form
23 of regulation plan on the effective date of this amendatory
24 Act of the 94th General Assembly.

25 (c) For purposes of subsection (b) of this Section: (i)
26 "price-capped competitive telecommunications service" means
27 the stand-alone primary residence network access lines, along
28 with any associated untimed local usage charged on a per-call
29 basis and not subject to presubscription (for purposes of this
30 subsection, a primary residence network access line with such
31 usage shall be considered a stand-alone offering subject to
32 price cap, notwithstanding the purchase by the customer of
33 additional service elements, features or functionalities for
34 such line, so long as such additional service elements,
35 features, or functionalities are purchased on an individual
36 basis, and not as part of a service package, the additional

1 service elements, features, or functionalities for such line
2 shall not be subject to price cap); and (ii) a "qualifying
3 telecommunications carrier" is any incumbent local exchange
4 carrier that has entered into an approved interconnection
5 agreement with one or more unaffiliated competitive carriers as
6 a result of negotiations or arbitration pursuant to the
7 provisions of Section 251 of the federal Telecommunications Act
8 of 1996 or any successors or amendments thereof.

9 ~~(c) An alternative regulation plan approved under this~~
10 ~~Section shall provide, as a condition for Commission approval~~
11 ~~of the plan, that for the first 3 years the plan is in effect,~~
12 ~~basic residence service rates shall be no higher than those~~
13 ~~rates in effect 180 days before the filing of the plan. This~~
14 ~~provision shall not be used as a justification or rationale for~~
15 ~~an increase in basic service rates for any other customer~~
16 ~~class. For purposes of this Section, "basic residence service~~
17 ~~rates" shall mean monthly recurring charges for the~~
18 ~~telecommunications carrier's lowest priced primary residence~~
19 ~~network access lines, along with any associated untimed or flat~~
20 ~~rate local usage charges. Nothing in this subsection (c) shall~~
21 ~~preclude the Commission from approving an alternative~~
22 ~~regulation plan that results in rate reductions provided all~~
23 ~~the requirements of subsection (b) are satisfied by the plan.~~

24 ~~(d) Any alternative form of regulation granted for a~~
25 ~~multi-year period under this Section shall provide for annual~~
26 ~~or more frequent reporting to the Commission to document that~~
27 ~~the requirements of the plan are being properly implemented.~~

28 ~~(e) Upon petition by the telecommunications carrier or any~~
29 ~~other person or upon its own motion, the Commission may rescind~~
30 ~~its approval of an alternative form of regulation if, after~~
31 ~~notice and hearing, it finds that the conditions set forth in~~
32 ~~subsection (b) of this Section can no longer be satisfied. Any~~
33 ~~person may file a complaint alleging that the rates charged by~~
34 ~~a telecommunications carrier under an alternative form of~~
35 ~~regulation are unfair, unjust, unreasonable, unduly~~
36 ~~discriminatory, or are otherwise not consistent with the~~

1 ~~requirements of this Article; provided, that the complainant~~
2 ~~shall bear the burden of proving the allegations in the~~
3 ~~complaint.~~

4 ~~(f) Nothing in this Section shall be construed to authorize~~
5 ~~the Commission to render Sections 9-241, 9-250, and 13-505.2~~
6 ~~inapplicable to noncompetitive services.~~

7 (Source: P.A. 87-856.)

8 (220 ILCS 5/13-509) (from Ch. 111 2/3, par. 13-509)

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

10 Sec. 13-509. Agreements for provisions of competitive
11 telecommunications services differing from tariffs. A
12 telecommunications carrier may negotiate with customers or
13 prospective customers to provide competitive
14 telecommunications service, and in so doing, may offer or agree
15 to provide such service ~~on such terms and for such rates or~~
16 ~~charges as are reasonable,~~ without regard to any tariffs it may
17 have filed with the Commission with respect to such services.
18 Within 30 days after executing any such agreement, the
19 telecommunications carrier shall submit to the Commission
20 written notice of a list of any such agreements (which list may
21 be filed electronically). The notice shall identify the general
22 nature of all such agreements, the parties to each agreement,
23 and a general description of differences between each agreement
24 and the related tariff. A copy of each such agreement ~~and any~~
25 ~~cost support required to be filed with the agreement by some~~
26 ~~other Section of this Act~~ shall be provided to the Commission
27 within 10 business days after a request for review of the
28 agreement is made by the Commission or is made to the
29 Commission by another telecommunications carrier. Upon
30 submitting notice to the Commission of any such agreement, the
31 telecommunications carrier shall thereafter provide service
32 according to the terms thereof, ~~unless the Commission finds,~~
33 ~~after notice and hearing, that the continued provision of~~
34 ~~service pursuant to such agreement would substantially and~~
35 ~~adversely affect the financial integrity of the~~

1 ~~telecommunications carrier or would violate any other~~
2 ~~provision of this Act. This Section does not apply to the~~
3 ~~provision of competitive telecommunications services offered~~
4 ~~or provided to business end users by a telecommunications~~
5 ~~carrier that does not file tariffs for such business services~~
6 ~~pursuant to Section 13-501.~~

7 Any agreement or notice entered into or submitted pursuant
8 to the provisions of this Section may, in the Commission's
9 discretion, be accorded proprietary treatment.

10 (Source: P.A. 92-22, eff. 6-30-01; 93-245, eff. 7-22-03.)

11 (220 ILCS 5/13-514)

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

13 Sec. 13-514. Prohibited Actions of Telecommunications
14 Carriers. A telecommunications carrier shall not knowingly
15 impede the development of competition in any
16 telecommunications service market. The following prohibited
17 actions are considered per se impediments to the development of
18 competition; however, the Commission is not limited in any
19 manner to these enumerated impediments and may consider other
20 actions which impede competition to be prohibited:

21 (1) unreasonably refusing or delaying interconnections or
22 collocation or providing inferior connections to another
23 telecommunications carrier;

24 (2) unreasonably impairing the speed, quality, or
25 efficiency of services used by another telecommunications
26 carrier;

27 (3) unreasonably denying a request of another provider for
28 information regarding the technical design and features,
29 geographic coverage, information necessary for the design of
30 equipment, and traffic capabilities of the local exchange
31 network except for proprietary information unless such
32 information is subject to a proprietary agreement or protective
33 order;

34 (4) unreasonably delaying access in connecting another
35 telecommunications carrier to the local exchange network whose

1 product or service requires novel or specialized access
2 requirements;

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

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

9 (7) unreasonably failing to offer services to customers in
10 a local exchange, where a telecommunications carrier is
11 certificated to provide service and has entered into an
12 interconnection agreement for the provision of local exchange
13 telecommunications services, with the intent to delay or impede
14 the ability of the incumbent local exchange telecommunications
15 carrier to provide inter-LATA telecommunications services;

16 (8) violating the terms of or unreasonably delaying
17 implementation of an interconnection agreement entered into
18 pursuant to Section 252 of the federal Telecommunications Act
19 of 1996 in a manner that unreasonably delays, increases the
20 cost, or impedes the availability of telecommunications
21 services to consumers;

22 (9) unreasonably refusing or delaying access to or
23 provision of operation support systems to another
24 telecommunications carrier or providing inferior operation
25 support systems to another telecommunications carrier;

26 (10) unreasonably failing to offer network elements that
27 ~~the Commission or~~ the Federal Communications Commission has
28 determined must be offered on an unbundled basis to another
29 telecommunications carrier in a manner consistent with the
30 ~~Commission's or~~ Federal Communications Commission's orders or
31 rules requiring such offerings;

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

33 (12) violating an order of the Commission regarding matters
34 between telecommunications carriers.

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

1 (220 ILCS 5/13-515)

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

3 Sec. 13-515. Enforcement.

4 (a) The following expedited procedures shall be used to
5 enforce the provisions of Section 13-514 of this Act. However,
6 the Commission, the complainant, and the respondent may
7 mutually agree to adjust the procedures established in this
8 Section.

9 (b) (Blank).

10 (c) No complaint may be filed under this Section until the
11 complainant has first notified the respondent of the alleged
12 violation and offered the respondent 5 business days ~~48 hours~~
13 to correct the situation. Provision of notice and the
14 opportunity to correct the situation creates a rebuttable
15 presumption of knowledge under Section 13-514. After the filing
16 of a complaint under this Section, the parties may agree to
17 follow the mediation process under Section 10-101.1 of this
18 Act. The time periods specified in subdivision (d)(7) of this
19 Section shall be tolled during the time spent in mediation
20 under Section 10-101.1.

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

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

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

32 (3) Reasonable discovery specific to the issue of the
33 complaint may commence upon filing of the complaint.
34 Requests for discovery must be served in hand and responses
35 to discovery must be provided in hand to the requester
36 within 14 days after a request for discovery is made.

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

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

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

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

31 (8) Any party may file a petition requesting the
32 Commission to review the decision of the hearing examiner
33 or arbitrator within 5 days of such decision. Any party may
34 file a response to a petition for review within 3 business
35 days after actual service of the petition. After the time
36 for filing of the petition for review, but no later than 15

1 days after the decision of the hearing examiner or
2 arbitrator, the Commission shall decide to adopt the
3 decision of the hearing examiner or arbitrator or shall
4 issue its own final order.

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

31 (f) The Commission is authorized to obtain outside
32 resources including, but not limited to, arbitrators and
33 consultants for the purposes of the hearings authorized by this
34 Section. Any arbitrator or consultant obtained by the
35 Commission shall be approved by both parties to the hearing.
36 The cost of such outside resources including, but not limited

1 to, arbitrators and consultants shall be borne by the parties.
2 The Commission shall review the bill for reasonableness and
3 assess the parties for reasonable costs dividing the costs
4 according to the resolution of the complaint brought under this
5 Section. Such costs shall be paid by the parties directly to
6 the arbitrators, consultants, and other providers of outside
7 resources within 60 days after receiving notice of the
8 assessments from the Commission. Interest at the statutory rate
9 shall accrue after expiration of the 60-day period. The
10 Commission, arbitrators, consultants, or other providers of
11 outside resources may apply to a court of competent
12 jurisdiction for an order requiring payment.

13 (g) The Commission shall assess the parties under this
14 subsection for all of the Commission's costs of investigation
15 and conduct of the proceedings brought under this Section
16 including, but not limited to, the prorated salaries of staff,
17 attorneys, hearing examiners, and support personnel and
18 including any travel and per diem, directly attributable to the
19 complaint brought pursuant to this Section, but excluding those
20 costs provided for in subsection (f), dividing the costs
21 according to the resolution of the complaint brought under this
22 Section. All assessments made under this subsection shall be
23 paid into the Public Utility Fund within 60 days after
24 receiving notice of the assessments from the Commission.
25 Interest at the statutory rate shall accrue after the
26 expiration of the 60 day period. The Commission is authorized
27 to apply to a court of competent jurisdiction for an order
28 requiring payment.

29 (h) If the Commission determines that there is an imminent
30 threat to competition or to the public interest, the Commission
31 may, notwithstanding any other provision of this Act, seek
32 temporary, preliminary, or permanent injunctive relief from a
33 court of competent jurisdiction either prior to or after the
34 hearing.

35 (i) A party shall not bring or defend a proceeding brought
36 under this Section or assert or controvert an issue in a

1 proceeding brought under this Section, unless there is a
2 non-frivolous basis for doing so. By presenting a pleading,
3 written motion, or other paper in complaint or defense of the
4 actions or inaction of a party under this Section, a party is
5 certifying to the Commission that to the best of that party's
6 knowledge, information, and belief, formed after a reasonable
7 inquiry of the subject matter of the complaint or defense, that
8 the complaint or defense is well grounded in law and fact, and
9 under the circumstances:

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

14 (2) the allegations and other factual contentions have
15 evidentiary support or, if specifically so identified, are
16 likely to have evidentiary support after reasonable
17 opportunity for further investigation or discovery as
18 defined herein.

19 (j) If, after notice and a reasonable opportunity to
20 respond, the Commission determines that subsection (i) has been
21 violated, the Commission shall impose appropriate sanctions
22 upon the party or parties that have violated subsection (i) or
23 are responsible for the violation. The sanctions shall be not
24 more than \$30,000, plus the amount of expenses accrued by the
25 Commission for conducting the hearing. Payment of sanctions
26 imposed under this subsection shall be made to the Common
27 School Fund within 30 days of imposition of such sanctions.

28 (k) An appeal of a Commission Order made pursuant to this
29 Section shall not effectuate a stay of the Order unless a court
30 of competent jurisdiction specifically finds that the party
31 seeking the stay will likely succeed on the merits, that the
32 party will suffer irreparable harm without the stay, and that
33 the stay is in the public interest.

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

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

2 Sec. 13-517. Provision of advanced telecommunications
3 services.

4 (a) Every Incumbent Local Exchange Carrier ~~Local Exchange~~
5 ~~Carrier (telecommunications carrier that offers or provides a~~
6 ~~noncompetitive telecommunications service)~~ shall offer or
7 provide advanced telecommunications services to not less than
8 80% of its customers by January 1, 2005. An Incumbent Local
9 Exchange Carrier may satisfy this requirement through services
10 offered or provided by an affiliate.

11 (b) The Commission is authorized to grant a full or partial
12 waiver of the requirements of this Section upon verified
13 petition of any Incumbent Local Exchange Carrier ("ILEC") which
14 demonstrates that full compliance with the requirements of this
15 Section would be unduly economically burdensome or technically
16 infeasible or otherwise impractical in exchanges with low
17 population density. Notice of any such petition must be given
18 to all potentially affected customers. If no potentially
19 affected customer requests the opportunity for a hearing on the
20 waiver petition, the Commission may, in its discretion, allow
21 the waiver request to take affect without hearing. The
22 Commission shall grant such petition to the extent that, and
23 for such duration as, the Commission determines that such
24 waiver:

25 (1) is necessary:

26 (A) to avoid a significant adverse economic impact
27 on users of telecommunications services generally;

28 (B) to avoid imposing a requirement that is unduly
29 economically burdensome;

30 (C) to avoid imposing a requirement that is
31 technically infeasible; or

32 (D) to avoid imposing a requirement that is
33 otherwise impractical to implement in exchanges with
34 low population density; and

35 (2) is consistent with the public interest,
36 convenience, and necessity.

1 The Commission shall act upon any petition filed under this
2 subsection within 180 days after receiving such petition. The
3 Commission may by rule establish standards for granting any
4 waiver of the requirements of this Section. The Commission may,
5 upon complaint or on its own motion, hold a hearing to
6 reconsider its grant of a waiver in whole or in part. In the
7 event that the Commission, following hearing, determines that
8 the affected ILEC no longer meets the requirements of item (2)
9 of this subsection, the Commission shall by order rescind such
10 waiver, in whole or in part. In the event and to the degree the
11 Commission rescinds such waiver, the Commission shall
12 establish an implementation schedule for compliance with the
13 requirements of this Section.

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

18 As used in this Section, "affiliate" means a person that is
19 (directly or indirectly) owned or controlled by, or is under
20 common ownership or control with, another person. As used in
21 this Section, "person" includes an individual, partnership,
22 association, joint stock company, trust, corporation, or
23 limited liability company.

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

25 (220 ILCS 5/13-518.1 new)

26 Sec. 13-518.1. Retail service packages. Notwithstanding
27 any other provisions of this Act:

28 (1) A telecommunications carrier may offer retail
29 telecommunications services, both competitive and
30 noncompetitive, and non-regulated services or products, in
31 a package to residential and business end users so long as
32 the total price of such service package exceeds the
33 long-run service incremental cost of the
34 telecommunications services included in the service
35 package. The telecommunications services included in a

1 service package may be offered under the rates, terms and
2 conditions of the service package so long as each of the
3 noncompetitive or price-capped competitive
4 telecommunications services contained within such service
5 package is separately tariffed and offered to end users on
6 a stand-alone basis. To the extent the service package
7 includes non-regulated services or products, the
8 Commission shall have no jurisdiction over the prices,
9 terms or conditions for the offering of such non-regulated
10 services or products nor shall such non-regulated services
11 or products be required to be included in the service
12 package tariff. For purposes of this Section
13 "non-regulated services or products" means anything that
14 is neither a competitive telecommunications service nor a
15 noncompetitive telecommunications service as defined in
16 this Article.

17 (2) Any retail service package that contains both
18 competitive retail telecommunications services and
19 noncompetitive retail telecommunications services shall be
20 classified as a retail competitive telecommunications
21 service, without further Commission review, so long as each
22 noncompetitive telecommunications service within the
23 package is separately tariffed and offered to end users on
24 a stand-alone basis.

25 (220 ILCS 5/13-701) (from Ch. 111 2/3, par. 13-701)

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

27 Sec. 13-701. Telephone cooperatives; supervision by
28 Commission; annual financial report.

29 (a) Notwithstanding any other provision of this Act to the
30 contrary, the Commission has no power to supervise or control
31 any telephone cooperative as respects assessment schedules or
32 local service rates made or charged by such a cooperative on a
33 nondiscriminatory basis. In addition, the Commission has no
34 power to inquire into, or require the submission of, the terms,
35 conditions or agreements by or under which telephone

1 cooperatives are financed. A telephone cooperative shall file
2 with the Commission either a copy of the annual financial
3 report required by the Rural Electrification Administration,
4 or the annual financial report required of other public
5 utilities.

6 (b) Sections 13-712 and 13-713 of this Article do not apply
7 to telephone cooperatives.

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

9 (220 ILCS 5/13-712)

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

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 is
21 not limited to, call forwarding, voice mail, or paging
22 services.

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

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

1 as amended.

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

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

25 (1) Install basic local exchange service within 5
26 business days after receipt of an order from the customer
27 unless the customer requests an installation date that is
28 beyond 5 business days after placing the order for basic
29 service and to inform the customer of its duty to install
30 service within this timeframe. If installation of service
31 is requested on or by a date more than 5 business days in
32 the future, the telecommunications carrier shall install
33 service by the date requested. A telecommunications
34 carrier offering basic local exchange service utilizing
35 the network or network elements of another carrier shall
36 install new lines for basic local exchange service within 3

1 business days after provisioning of the line or lines by
2 the carrier whose network or network elements are being
3 utilized is complete. This subdivision (d)(1) does not
4 apply to the migration of a customer between
5 telecommunications carriers, so long as the customer
6 maintains dial tone.

7 (2) Restore basic local exchange service for a customer
8 within 24 hours of receiving notice that a customer is out
9 of service. This provision applies to service disruptions
10 that occur when a customer switches existing basic local
11 exchange service from one carrier to another.

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

15 (4) Inform a customer when a repair or installation
16 appointment requires the customer to be present.

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

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

1 disrupted. If the service disruption is for more than 72
2 hours, but not more than 96 hours, the credit must be equal
3 to at least 67% of one month's recurring charges for all
4 local services disrupted. If the service disruption is for
5 more than 96 hours, but not more than 120 hours, the credit
6 must be equal to one month's recurring charges for all
7 local services disrupted. For each day or portion thereof
8 that the service disruption continues beyond the initial
9 120-hour period, the carrier shall also provide either
10 alternative telephone service or an additional credit of
11 \$20 per day, at the customers option.

12 (2) If a carrier fails to install basic local exchange
13 service as required under subdivision (d)(1), the carrier
14 shall waive 50% of any installation charges, or in the
15 absence of an installation charge or where installation is
16 pursuant to the Link Up program, the carrier shall provide
17 a 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 days
20 after the customer's requested installation date, if the
21 requested date was more than 5 business days after the date
22 of the order, the carrier shall waive 100% of the
23 installation charge, or in the absence of an installation
24 charge or where installation is provided pursuant to the
25 Link Up program, the carrier shall provide a credit of \$50.
26 For each day that the failure to install service continues
27 beyond the initial 10 business days, or beyond 5 business
28 days after the customer's requested installation date, if
29 the requested date was more than 5 business days after the
30 date of the order, the carrier shall also provide either
31 alternative telephone service or an additional credit of
32 \$20 per day, at the customer's option until service is
33 installed.

34 (3) If a carrier fails to keep a scheduled repair or
35 installation appointment when a customer premises visit
36 requires a customer to be present, the carrier shall credit

1 the customer \$50 per missed appointment. A credit required
2 by this subsection does not apply when the carrier provides
3 the customer with 24-hour notice of its inability to keep
4 the appointment.

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

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

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

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

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

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

29 (iv) is extended by the carrier's inability to gain
30 access to the customer's premises due to the customer
31 missing an appointment, provided that the violation is
32 not further extended by the carrier;

33 (v) occurs as a result of a customer request to
34 change the scheduled appointment, provided that the
35 violation is not further extended by the carrier;

36 (vi) occurs as a result of a carrier's right to

1 refuse service to a customer as provided in Commission
2 rules; or

3 (vii) occurs as a result of a lack of facilities
4 where a customer requests service at a geographically
5 remote location, a customer requests service in a
6 geographic area where the carrier is not currently
7 offering service, or there are insufficient facilities
8 to meet the customer's request for service, subject to
9 a carrier's obligation for reasonable facilities
10 planning.

11 (7) The provisions of this subsection are cumulative
12 and shall not in any way diminish or replace other civil or
13 administrative remedies available to a customer or a class
14 of customers.

15 (e-5) If a telecommunications carrier that is subject to an
16 alternative form of regulation plan on the effective date of
17 this amendatory Act of the 94th General Assembly fails to
18 comply with the requirements set forth in paragraphs (1), (2),
19 and (3) of subsection (e) regarding basic local exchange
20 service provided to residential end users, the credits to be
21 paid or charges to be waived shall be calculated as set forth
22 in subsection (e), except that any such credits or charges to
23 be waived shall be 10% higher than those set forth in those
24 paragraphs. This subsection shall take effect 6 months after
25 the effective date of this amendatory Act of the 94th General
26 Assembly.

27 (e-10) Notwithstanding any other provision in this Section
28 or Article, a telecommunications carrier that is subject to an
29 alternative form of regulation plan on the date of the
30 effective date of this amendatory Act of the 94th General
31 Assembly shall be subject to the following conditions if it
32 elects to be subject to a dial tone protection plan pursuant to
33 Section 13-506.1 of this Article:

34 (1) Such prior alternative regulation
35 telecommunications carrier shall continue to be subject to
36 the retail service quality measures, exclusions,

1 calculations and standards set forth in the Commission's
2 orders in the proceeding in which such plan was adopted,
3 but such telecommunications carrier shall not be subject to
4 any retail service quality-related rate reductions or
5 penalties that may have applied under such plan or the
6 Commission's orders;

7 (2) To the extent the measures adopted under such an
8 alternative form of regulation plan are also contained in
9 the rules promulgated by the Commission pursuant to this
10 Section, the retail service quality measures, exclusions,
11 calculations and standards adopted pursuant to the
12 Commission's order in the proceeding in which such prior
13 alternative regulation plan was adopted shall apply rather
14 than such rules, except to the extent the service quality
15 standard provided in the rules is more stringent;

16 (3) Such telecommunications carrier shall also be
17 subject to any measures that are contained in the rules
18 promulgated by the Commission pursuant to this Section that
19 are not measures that are included in such
20 telecommunications carrier's alternative form of
21 regulation plan;

22 (4) The civil penalties applicable to any violations of
23 items (1) through (3) of this subsection are set forth in
24 Section 13-305; and

25 (5) Such telecommunications carrier shall report its
26 performance measurement results pursuant to items (1)
27 through (3) of this subsection to the Commission consistent
28 with the requirements of subsection (f) of this Section.

29 (f) The rules shall require each telecommunications
30 carrier to provide to the Commission, on a quarterly basis and
31 in a form suitable for posting on the Commission's website, a
32 public report that includes performance data for basic local
33 exchange service quality of service. The performance data shall
34 be disaggregated for each geographic area and each customer
35 class of the State for which the telecommunications carrier
36 internally monitored performance data as of a date 120 days

1 preceding the effective date of this amendatory Act of the 92nd
2 General Assembly. The report shall include, at a minimum,
3 performance data on basic local exchange service
4 installations, lines out of service for more than 24 hours,
5 carrier response to customer calls, trouble reports, and missed
6 repair and installation commitments.

7 (g) The Commission shall establish and implement carrier to
8 carrier wholesale service quality rules and establish remedies
9 to ensure enforcement of the rules. These rules shall become
10 effective within one year after the effective date of this
11 amendatory Act of the 94th General Assembly. The wholesale
12 service quality rules and standards shall be reasonable and any
13 remedies shall be proportionate to the actual damages, if any,
14 to the other telecommunications carrier. Any
15 carrier-to-carrier rules developed by the Commission pursuant
16 to this subsection shall: (1) not exceed the duties imposed on
17 telecommunications carriers pursuant to Section 251 of the
18 federal Telecommunications Act of 1996 and regulations
19 promulgated thereunder or any amendments and successors
20 thereof; (2) only relate to basic local exchange service to end
21 users and shall specify the terms and conditions regarding the
22 transfer of customer information, telephone numbers, and
23 required unbundled network elements when a basic local exchange
24 end user customer transfers from one telecommunications
25 carrier to another telecommunications carrier; (3) apply
26 equally to any telecommunications carrier providing basic
27 local exchange service; (4) include no more than 12 performance
28 measures; and (5) be the only wholesale service quality rules
29 that apply at the expiration of any wholesale performance plan
30 previously adopted by the Commission for any
31 telecommunications carrier prior to the amendment of this
32 subsection or on July 1, 2007, whichever date is earlier. At a
33 minimum, the rules shall include measures for unbundled loop
34 return, return of customer service records, loss
35 notifications, and number portability with remedies. Any
36 telecommunications carrier that is not subject to a

1 Commission-approved remedy plan as of the effective date of
2 this amendatory Act of the 94th General Assembly shall have 6
3 months after the effective date of the rules promulgated
4 pursuant to this subsection under this amendatory Act of the
5 94th General Assembly to comply with the requirements of this
6 subsection, to the extent that the rules promulgated pursuant
7 to this amendatory Act contain measures to which such carrier
8 was not subject as of the effective date of this amendatory
9 Act. Nothing in this Section is intended to limit the ability
10 of a telecommunications carrier to seek inclusion of
11 performance measures and remedies in the context of arbitration
12 before the Commission pursuant to Section 252 of the federal
13 Telecommunications Act of 1996. This subsection shall not apply
14 to certain rural telephone companies subject to 47 U.S.C.
15 251(f).

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

17 (220 ILCS 5/13-801) (from Ch. 111 2/3, par. 13-801)

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

19 Sec. 13-801. Incumbent local exchange carrier obligations.

20 (a) This Section provides ~~additional~~ State requirements
21 for incumbent local exchange carriers that the General Assembly
22 believes are consistent with and not preempted by contemplated
23 by, but not inconsistent with, Section 261(e) of the federal
24 Telecommunications Act of 1996, and regulations promulgated
25 thereunder or any amendments or successors thereof. not
26 preempted by orders of the Federal Communications Commission. A
27 telecommunications carrier not subject to regulation under an
28 alternative regulation plan pursuant to Section 13-506.1 of
29 this Act shall not be subject to the provisions of this
30 Section, to the extent that this Section imposes requirements
31 or obligations upon the telecommunications carrier that exceed
32 or are more stringent than those obligations imposed by Section
33 251 of the federal Telecommunications Act of 1996 and
34 regulations promulgated thereunder.

35 Nothing in this Article or this Section shall be construed

1 to require any incumbent local exchange carrier to provide any
2 other telecommunications carrier with interconnection,
3 collocation, access to any network element, whether unbundled
4 or combined with other network elements, or resale where the
5 Federal Communications Commission does not require such
6 interconnection, collocation, access to any network element,
7 or resale to be provided pursuant to Section 251 of the federal
8 Telecommunications Act of 1996 or any amendment or successor
9 thereof.

10 An incumbent local exchange carrier shall provide a
11 requesting telecommunications carrier with interconnection,
12 collocation, network elements, and access to operations
13 support systems on just, reasonable, and nondiscriminatory
14 rates, terms, and conditions to enable the provision of any and
15 all existing and new telecommunications services within the
16 LATA, including, but not limited to, local exchange and
17 exchange access. ~~The Commission shall require the incumbent~~
18 ~~local exchange carrier to provide interconnection,~~
19 ~~collocation, and network elements in any manner technically~~
20 ~~feasible to the fullest extent possible to implement the~~
21 ~~maximum development of competitive telecommunications services~~
22 ~~offerings. As used in this Section, to the extent that~~
23 ~~interconnection, collocation, or network elements have been~~
24 ~~deployed for or by the incumbent local exchange carrier or one~~
25 ~~of its wireline local exchange affiliates in any jurisdiction,~~
26 ~~it shall be presumed that such is technically feasible in~~
27 ~~Illinois.~~

28 (b) Interconnection. ~~(1)~~ An incumbent local exchange
29 carrier shall provide for the facilities and equipment of any
30 requesting telecommunications carrier's interconnection with
31 the incumbent local exchange carrier's network on just,
32 reasonable, and nondiscriminatory rates, terms, and
33 conditions:

34 (1) ~~(A)~~ for the transmission and routing of local
35 exchange, and exchange access telecommunications services;

36 (2) ~~(B)~~ at any technically feasible point within the

1 incumbent local exchange carrier's network; however, the
2 incumbent local exchange carrier may not require the
3 requesting carrier to interconnect at more than one
4 technically feasible point within a LATA; and

5 (3) ~~(c)~~ that is at least equal in quality and
6 functionality to that provided by the incumbent local
7 exchange carrier to itself or to any subsidiary, affiliate,
8 or any other party to which the incumbent local exchange
9 carrier provides interconnection.

10 ~~(2) An incumbent local exchange carrier shall make~~
11 ~~available to any requesting telecommunications carrier, to~~
12 ~~the extent technically feasible, those services,~~
13 ~~facilities, or interconnection agreements or arrangements~~
14 ~~that the incumbent local exchange carrier or any of its~~
15 ~~incumbent local exchange subsidiaries or affiliates offers~~
16 ~~in another state under the terms and conditions, but not~~
17 ~~the stated rates, negotiated pursuant to Section 252 of the~~
18 ~~federal Telecommunications Act of 1996. Rates shall be~~
19 ~~established in accordance with the requirements of~~
20 ~~subsection (g) of this Section. An incumbent local exchange~~
21 ~~carrier shall also make available to any requesting~~
22 ~~telecommunications carrier, to the extent technically~~
23 ~~feasible, and subject to the unbundling provisions of~~
24 ~~Section 251(d)(2) of the federal Telecommunications Act of~~
25 ~~1996, those unbundled network element or interconnection~~
26 ~~agreements or arrangements that a local exchange carrier~~
27 ~~affiliate of the incumbent local exchange carrier obtains~~
28 ~~in another state from the incumbent local exchange carrier~~
29 ~~in that state, under the terms and conditions, but not the~~
30 ~~stated rates, obtained through negotiation, or through an~~
31 ~~arbitration initiated by the affiliate, pursuant to~~
32 ~~Section 252 of the federal Telecommunications Act of 1996.~~
33 ~~Rates shall be established in accordance with the~~
34 ~~requirements of subsection (g) of this Section.~~

35 (c) Collocation. An incumbent local exchange carrier shall
36 provide for physical or virtual collocation of any type of

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

25 (d) Network elements. The incumbent local exchange carrier
26 shall provide to any requesting telecommunications carrier,
27 for the provision of an existing or a new telecommunications
28 service, nondiscriminatory access to network elements that are
29 required by the Federal Communications Commission to be made
30 available on an unbundled basis pursuant to Section 251(c)(3)
31 and 251(d)(2) of the federal Telecommunications Act of 1996 and
32 regulations promulgated thereunder or any amendments or
33 successors thereof, on an ~~any~~ unbundled ~~or bundled~~ basis, to
34 the extent that such network elements are required by the
35 Federal Communications Commission to be provided on an
36 unbundled basis pursuant to Section 251(c)(3) and 251(d)(2) of

1 that Act and regulations promulgated thereunder or any
2 amendments or successors thereof, as requested, at any
3 technically feasible point on just, reasonable, and
4 nondiscriminatory rates, terms, and conditions.

5 (1) An incumbent local exchange carrier shall provide
6 unbundled network elements in a manner that allows
7 requesting telecommunications carriers to combine those
8 network elements to provide a telecommunications service.

9 (2) An incumbent local exchange carrier shall not
10 separate any required network elements that are currently
11 combined with other required network elements, except at
12 the explicit direction of the requesting carrier.

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

28 The incumbent local exchange carrier shall be entitled
29 to recover from the requesting telecommunications carrier
30 any just and reasonable special construction costs
31 incurred in combining such unbundled network elements (i)
32 if such costs are not already included in the established
33 price of providing the network elements, (ii) if the
34 incumbent local exchange carrier charges such costs to its
35 retail telecommunications end users, and (iii) if fully
36 disclosed in advance to the requesting telecommunications

1 carrier. The Commission shall determine whether the
2 incumbent local exchange carrier is entitled to any special
3 construction costs if there is a dispute between the
4 incumbent local exchange carrier and the requesting
5 telecommunications carrier under this subdivision of this
6 Section of this Act.

7 (4) A telecommunications carrier may use a network
8 element ~~elements~~ or combination of platform consisting
9 ~~solely of combined network elements,~~ to the extent that
10 such network elements are required by the Federal
11 Communications Commission to be made available on an
12 unbundled basis pursuant to Section 251(c)(3) and
13 251(d)(2) of the federal Telecommunications Act of 1996 and
14 regulations promulgated thereunder or any amendments or
15 successors thereof, ~~of the incumbent local exchange~~
16 ~~carrier to provide end to end telecommunications service~~
17 for the provision of existing and new local exchange,
18 interexchange that includes local, local toll, and
19 intraLATA toll, and exchange access telecommunications
20 services within the LATA directly to its local exchange end
21 users or payphone service providers ~~without the requesting~~
22 ~~telecommunications carrier's provision or use of any other~~
23 ~~facilities or functionalities.~~

24 (5) The Commission may ~~shall~~ establish maximum time
25 periods for the incumbent local exchange carrier's
26 provision of unbundled network elements, subject to the
27 provisions of subsection (g) of Section 13-712 to the
28 extent applicable. The maximum time period shall be no
29 longer than the time period for the incumbent local
30 exchange carrier's provision of comparable retail
31 telecommunications services utilizing those network
32 elements. The Commission may establish a maximum time
33 period for a particular network element that is shorter
34 than for a comparable retail telecommunications service
35 offered by the incumbent local exchange carrier if a
36 requesting telecommunications carrier establishes that it

1 shall perform other functions or activities after receipt
2 of the particular network element to provide
3 telecommunications services to end users. The burden of
4 proof for establishing a maximum time period for a
5 particular network element that is shorter than for a
6 comparable retail telecommunications service offered by
7 the incumbent local exchange carrier shall be on the
8 requesting telecommunications carrier. Notwithstanding any
9 other provision of this Article, unless and until the
10 Commission establishes by rule or order a different
11 specific maximum time interval, the maximum time intervals
12 shall not exceed 5 business days for the provision of
13 unbundled loops, both digital and analog, 10 business days
14 for the conditioning of unbundled loops or for existing
15 combinations of network elements for an end user that has
16 existing local exchange telecommunications service, and
17 one business day for the provision of the high frequency
18 portion of the loop (line-sharing) for at least 95% of the
19 requests of each requesting telecommunications carrier for
20 each month.

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

34 ~~(6) When a telecommunications carrier requests a~~
35 ~~network elements platform referred to in subdivision~~
36 ~~(d) (4) of this Section, without the need for field work~~

1 ~~outside of the central office, for an end user that has~~
2 ~~existing local exchange telecommunications service~~
3 ~~provided by an incumbent local exchange carrier, or by~~
4 ~~another telecommunications carrier through the incumbent~~
5 ~~local exchange carrier's network elements platform, unless~~
6 ~~otherwise agreed by the telecommunications carriers, the~~
7 ~~incumbent local exchange carrier shall provide the~~
8 ~~requesting telecommunications carrier with the requested~~
9 ~~network elements platform within 3 business days for at~~
10 ~~least 95% of the requests for each requesting~~
11 ~~telecommunications carrier for each month. A requesting~~
12 ~~telecommunications carrier may order the network elements~~
13 ~~platform as is for an end user that has such existing local~~
14 ~~exchange service without changing any of the features~~
15 ~~previously selected by the end user. The incumbent local~~
16 ~~exchange carrier shall provide the requested network~~
17 ~~elements platform without any disruption to the end user's~~
18 ~~services.~~

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

32 (6) (c) Operations support systems. Subject to the
33 provisions of subsection (g) of Section 13-712 to the
34 extent applicable, the The Commission may ~~shall~~ establish
35 minimum standards with just, reasonable, and
36 nondiscriminatory rates, terms, and conditions for the

1 preordering, ordering, provisioning, maintenance and
2 repair, and billing functions of the incumbent local
3 exchange carrier's operations support systems provided to
4 other telecommunications carriers.

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

24 (f) ~~(g)~~ Cost based rates. Interconnection, collocation,
25 and network elements, and operations support systems to the
26 extent required by the Federal Communications Commission to be
27 made available pursuant to Section 251(c) of the federal
28 Telecommunications Act of 1996 and regulations promulgated
29 thereunder or any amendments or successors thereof, shall be
30 provided by the incumbent local exchange carrier to requesting
31 telecommunications carriers at cost based rates consistent
32 with Section 252 of such Act and regulations promulgated
33 thereunder or any amendments or successors thereof. The
34 immediate implementation and provisioning of interconnection,
35 collocation, network elements, and operations support systems
36 shall not be delayed due to any lack of determination by the

1 Commission as to the cost based rates. When cost based rates
2 have not been established, within 30 days after the filing of a
3 petition for the setting of interim rates, or after the
4 Commission's own motion, the Commission shall provide for
5 interim rates that shall remain in full force and effect until
6 the cost based rate determination is made, or the interim rate
7 is modified, by the Commission.

8 (g) ~~(h)~~ Rural exemption. This Section does not apply to
9 certain rural telephone companies as described in 47 U.S.C.
10 251(f).

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

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

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

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

33 (220 ILCS 5/13-804 new)

34 Sec. 13-804. Access services.

35 (a) The rates of any telecommunications carrier providing

1 intrastate switched access service or intrastate dedicated
2 special access shall be deemed to be just and reasonable if
3 such rates were established pursuant to a Commission order or
4 if such rates are no higher than such carrier's interstate
5 rates for interstate switched access service or interstate
6 dedicated special access as found to be just and reasonable
7 under the orders and regulations of the Federal Communications
8 Commission. For purposes of this Section, the intrastate rates
9 of a carrier will be considered to be no higher than its
10 interstate rates, if the carrier's intrastate rates are no
11 higher than its interstate rates within 30 days following the
12 effective date of this amendatory Act of the 94th General
13 Assembly or within one day following the effective date of any
14 new FCC orders and regulations issued after that date.

15 (b) Notwithstanding anything to the contrary in this
16 Section or Article, the Commission retains the authority, upon
17 complaint by another telecommunications carrier, to
18 investigate and review the intrastate switched access service
19 and intrastate dedicated special access rates of any
20 telecommunications carrier that provides intrastate switched
21 access service or intrastate dedicated special access at rates
22 higher than its interstate rates for either of such services to
23 determine whether such rates are just and reasonable and to
24 revise them to the extent necessary to make them just and
25 reasonable, provided that the Commission shall have no
26 authority to order a telecommunications carrier to set its
27 rates for intrastate switched access services or intrastate
28 dedicated special access at rates lower than its interstate
29 rates for those services.

30 (c) Subsections (a) and (b) shall not apply to incumbent
31 local exchange carriers serving 35,000 or fewer access lines
32 whose intrastate switched access rates are based upon the
33 methodologies approved in the Second Interim Order of the
34 Commission in Docket No. 01-0808, unless the Commission
35 determines to investigate and changes the methodologies
36 approved in that Second Interim Order.

1 (d) For purposes of this Section, the rate for intrastate
2 switched access services means the composite, per-minute rate
3 for these services, including all applicable fixed and
4 traffic-sensitive charges.

5 (e) Nothing in subsection (a) of this Section prohibits a
6 telecommunications carrier from electing to offer intrastate
7 switched access service or intrastate dedicated special access
8 at rates lower than its interstate rates.

9 (f) Notwithstanding anything to the contrary in this
10 Section or Article, the Commission retains the authority to
11 review, upon complaint by a telecommunications carrier, the
12 provision of intrastate dedicated special access by another
13 telecommunications carrier to determine whether or not it is
14 being provided in an unreasonably discriminatory manner.

15 (220 ILCS 5/13-1200)

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

17 Sec. 13-1200. Repealer. This Article is repealed July 1,
18 2008 ~~2005~~.

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

20 (220 ILCS 5/13-402.1 rep.)

21 (220 ILCS 5/13-408 rep.)

22 (220 ILCS 5/13-409 rep.)

23 (220 ILCS 5/13-502.5 rep.)

24 (220 ILCS 5/13-503 rep.)

25 (220 ILCS 5/13-505.3 rep.)

26 (220 ILCS 5/13-505.4 rep.)

27 (220 ILCS 5/13-505.5 rep.)

28 (220 ILCS 5/13-505.6 rep.)

29 (220 ILCS 5/13-505.7 rep.)

30 (220 ILCS 5/13-508 rep.)

31 (220 ILCS 5/13-508.1 rep.)

32 (220 ILCS 5/13-518 rep.)

33 (220 ILCS 5/13-802 rep.)

34 Section 10. The Public Utilities Act is amended by

1 repealing Sections 13-402.1, 13-408, 13-409, 13-502.5, 13-503,
2 13-505.3, 13-505.4, 13-505.5, 13-505.6, 13-505.7, 13-508,
3 13-508.1, 13-518, and 13-802.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.