



Sen. James F. Clayborne Jr.

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09400SB1700sam003

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1 AMENDMENT TO SENATE BILL 1700

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1700 by replacing  
3 everything after the enacting clause with the following:

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13 (Section scheduled to be repealed on July 1, 2005)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

1 utility rates and services, and the regulation thereof, shall  
2 not apply to public mobile services.

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

4 (Section scheduled to be repealed on July 1, 2005)

5 Sec. 13-101. Application of Act to telecommunications  
6 rates and services. Except to the extent modified or  
7 supplemented by the specific provisions of this Article, the  
8 Sections of this Act pertaining to public utilities, public  
9 utility rates and services, and the regulation thereof, are  
10 fully and equally applicable to noncompetitive  
11 telecommunications rates and services, and the regulation  
12 thereof, except where the context clearly renders such  
13 provisions inapplicable. Except to the extent modified or  
14 supplemented by the specific provisions of this Article,  
15 Articles I through V, Sections ~~8-301~~, 8-505, 9-221, 9-222,  
16 9-222.1, 9-222.2, ~~9-250~~, and 9-252.1, and Article ~~Articles~~ X  
17 ~~and XI~~ of this Act are fully and equally applicable to  
18 competitive telecommunications ~~rates and services, and the~~  
19 ~~regulation thereof; in addition, as to competitive~~  
20 ~~telecommunications rates and services, and the regulation~~  
21 ~~thereof, all rules and regulations made by a telecommunications~~  
22 ~~carrier affecting or pertaining to its charges or service to~~  
23 ~~the public shall be just and reasonable, provided that nothing~~  
24 in this Section shall be construed to prevent a  
25 telecommunications carrier from accepting payment  
26 electronically or by the use of a customer-preferred  
27 financially accredited credit or debit methodology. Sections  
28 8-305, 8-401, 8-502, and 8-507 of this Act apply to the  
29 price-capped telecommunications services of an incumbent local  
30 exchange carrier. As of the effective date of this amendatory  
31 Act of the 92nd General Assembly, Sections 4-202, 4-203, and  
32 5-202 of this Act shall cease to apply to telecommunications  
33 rates and services.

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

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

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

4 Sec. 13-102. Findings. With respect to telecommunications  
5 services, as herein defined, and the communications  
6 environment that now exists in the State of Illinois, the  
7 General Assembly finds that:

8 (a) universally available and widely affordable  
9 telecommunications services are essential to the health,  
10 welfare and prosperity of all Illinois citizens;

11 (b) federal regulatory and judicial rulings in the 1980s  
12 caused a restructuring of the telecommunications industry and  
13 opened some aspects of the industry to competitive entry,  
14 thereby necessitating revision of State telecommunications  
15 regulatory policies and practices;

16 (c) revisions in telecommunications regulatory policies  
17 and practices in Illinois beginning in the mid-1980s brought  
18 the benefits of competition to consumers in many  
19 telecommunications markets, but not in local exchange  
20 telecommunications service markets;

21 (d) the federal Telecommunications Act of 1996 established  
22 the goal of opening all telecommunications service markets to  
23 competition and accords to the states certain responsibilities  
24 ~~the responsibility~~ to establish and enforce policies necessary  
25 to attain that goal;

26 (e) it is in the ~~immediate~~ interest of the People of the  
27 State of Illinois for the State to exercise its rights within  
28 the new framework of federal telecommunications policy to  
29 ensure that the economic benefits of competition in all  
30 telecommunications service markets are realized as effectively  
31 as possible;

32 (e-5) since the passage of the federal Telecommunications  
33 Act of 1996, national telecommunications policy has reaffirmed

1 the increased benefits of a pro-competitive de-regulatory  
2 framework that provides incentives for both incumbent carriers  
3 and new entrants to accelerate rapidly private sector  
4 investment in advanced telecommunications and information  
5 technologies in a manner that best allows for innovation and  
6 sustainable facilities-based competition;

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

11 (e-15) advancements in and the convergence of technologies  
12 that provide voice, video, and data transmission, including  
13 landline, wireless, cable, satellite, and Internet  
14 transmissions involving Internet Protocol enabled services  
15 (including voice, video, and data), are substantially  
16 increasing consumer choice, reinventing the communications  
17 industry and marketplace with unprecedented speed, and making  
18 available highly competitive products and services and new  
19 methods of delivering all forms of communications services;

20 (e-20) there is now significant communications competition  
21 in Illinois and a continuing convergence of multiple  
22 technologies, including facilities-based telecommunications  
23 services, cable telephony services, wireless services,  
24 advanced information services, high speed broadband transport  
25 services, and Internet Protocol enabled voice, video and data  
26 services;

27 (f) the continued competitive offering of all  
28 telecommunications services will increase innovation and  
29 efficiency in the provision of telecommunications services and  
30 ~~may~~ lead to reduced prices for consumers, a wider choice of  
31 services, increased investment in communications  
32 infrastructure, the creation of new jobs, and the attraction of  
33 new businesses to Illinois; and

34 (g) protection of the public interest requires changes in

1 the regulation of telecommunications carriers and services  
2 consistent with the competitive environment and convergence of  
3 technologies ~~to ensure, to the maximum feasible extent, the~~  
4 ~~reasonable and timely development of effective competition in~~  
5 ~~all telecommunications service markets.~~

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

7 (220 ILCS 5/13-103) (from Ch. 111 2/3, par. 13-103)

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

9 Sec. 13-103. Policy. Consistent with its findings, the  
10 General Assembly declares that it is the policy of the State of  
11 Illinois that:

12 (a) telecommunications services should be available to all  
13 Illinois citizens at just, reasonable, and affordable rates,  
14 provisioned over a well-maintained and reliable  
15 telecommunications infrastructure system, and that such  
16 services should be provided as widely and economically as  
17 possible in sufficient variety, quality, quantity and  
18 reliability to satisfy the public interest;

19 (b) consistent with the protection of consumers of  
20 telecommunications services and the furtherance of other  
21 public interest goals, competition in all telecommunications  
22 service markets exists and should be ~~pursued as~~ a substitute  
23 for regulation in determining the variety, quality and price of  
24 telecommunications services and that the economic burdens of  
25 regulation should be reduced to the extent possible consistent  
26 with the furtherance of market competition and protection of  
27 the public interest;

28 (b-5) given the global nature of the telecommunications  
29 marketplace, it is critical that the State of Illinois  
30 establish and exercise its telecommunications policy within  
31 the framework of federal telecommunications policy to ensure  
32 that the economic benefits of competition in all communications  
33 markets are maintained and enhanced;

1 (c) all necessary and appropriate modifications to State  
2 regulation of telecommunications carriers and services should  
3 be implemented without unnecessary disruption to the  
4 telecommunications infrastructure system or to consumers of  
5 telecommunications services and that it is necessary and  
6 appropriate to establish rules to encourage and ensure orderly  
7 transitions in the development of markets for all  
8 telecommunications services;

9 (d) the consumers of telecommunications services and  
10 facilities provided by persons or companies subject to  
11 regulation pursuant to this Act and Article should be required  
12 to pay only reasonable and non-discriminatory rates or charges  
13 and that in no case should rates or charges for non-competitive  
14 telecommunications services include any portion of the cost of  
15 providing competitive telecommunications services, as defined  
16 in Section 13-209, or the cost of any nonregulated activities;

17 (d-5) consumers of telecommunications services will  
18 benefit from marketplace pricing flexibility, which is  
19 designed to provide consumers with more services, more choice  
20 and new innovations at lower overall prices and increased  
21 value;

22 (e) the regulatory policies and procedures provided in this  
23 Article are established in recognition of the changing nature  
24 of the communications ~~telecommunications~~ industry and  
25 therefore telecommunications should be subject to systematic  
26 legislative review to ensure that the public benefits intended  
27 to result from such policies and procedures are fully realized;  
28 and

29 (f) development of and prudent investment in advanced  
30 telecommunications services and networks that foster economic  
31 development of the State should be encouraged through the  
32 implementation and enforcement of policies that promote  
33 effective and sustained competition in all telecommunications  
34 service markets.

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

2 (220 ILCS 5/13-202.5)

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

4 Sec. 13-202.5. Incumbent local exchange carrier.  
5 "Incumbent local exchange carrier" means, with respect to an  
6 area, the telecommunications carrier that provided  
7 noncompetitive local exchange telecommunications service in  
8 that area on February 8, 1996, and on that date was deemed a  
9 member of the exchange carrier association pursuant to 47  
10 C.F.R. 69.601(b), and includes its successors or, ~~assigns, and~~  
11 ~~affiliates.~~

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

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

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

15 Sec. 13-203. Telecommunications service.

16 "Telecommunications service" means the offering of  
17 telecommunications for a fee directly to the public, or to such  
18 classes of users as to be effectively available directly to the  
19 public, regardless of the facilities used. ~~the provision or~~  
20 ~~offering for rent, sale or lease, or in exchange for other~~  
21 ~~value received, of the transmittal of information, by means of~~  
22 ~~electromagnetic, including light, transmission with or without~~  
23 ~~benefit of any closed transmission medium, including all~~  
24 ~~instrumentalities, facilities, apparatus, and services~~  
25 ~~(including the collection, storage, forwarding, switching, and~~  
26 ~~delivery of such information) used to provide such transmission~~  
27 ~~and also includes access and interconnection arrangements and~~  
28 ~~services.~~

29 "Telecommunications service" does not include, however:

30 (a) the rent, sale, or lease, or exchange for other value  
31 received, of customer premises equipment except for customer  
32 premises equipment owned or provided by a telecommunications

1 carrier and used for answering 911 calls, and except for  
2 customer premises equipment provided under Section 13-703;

3 (b) telephone or telecommunications answering services, paging  
4 services, and physical pickup and delivery incidental to the  
5 provision of information transmitted through electromagnetic,  
6 including light, transmission; (c) community antenna  
7 television service which is operated to perform for hire the  
8 service of receiving and distributing video and audio program  
9 signals by wire, cable or other means to members of the public  
10 who subscribe to such service, to the extent that such service  
11 is utilized solely for the one-way distribution of such  
12 entertainment services with no more than incidental subscriber  
13 interaction required for the selection of such entertainment  
14 service.

15 The Commission may, by rulemaking, exclude (1) private line  
16 service which is not directly or indirectly used for the  
17 origination or termination of switched telecommunications  
18 service, (2) cellular radio service, (3) high-speed  
19 point-to-point data transmission at or above 9.6 kilobits, or  
20 (4) the provision of telecommunications service by a company or  
21 person otherwise subject to Section 13-202 (c) to a  
22 telecommunications carrier, which is incidental to the  
23 provision of service subject to Section 13-202 (c), from active  
24 regulatory oversight to the extent it finds, after notice,  
25 hearing and comment that such exclusion is consistent with the  
26 public interest and the purposes and policies of this Article.  
27 To the extent that the Commission has excluded cellular radio  
28 service from active regulatory oversight for any provider of  
29 cellular radio service in this State pursuant to this Section,  
30 the Commission shall exclude all other providers of cellular  
31 radio service in the State from active regulatory oversight  
32 without an additional rulemaking proceeding where there are 2  
33 or more certified providers of cellular radio service in a  
34 geographic area.



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

2 (220 ILCS 5/13-203.1 new)

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

7 (220 ILCS 5/13-203.2 new)

8 Sec. 13-203.2. "Advanced service" means high speed,  
9 switched, broadband, wireline telecommunications capability  
10 that enables end users to originate and receive high-quality  
11 voice, data, graphics or video telecommunications using any  
12 technology.

13 (220 ILCS 5/13-203.3 new)

14 Sec. 13-203.3. "Broadband service" means lines (or  
15 wireless channels) that terminate at an end user location,  
16 connect the end user to the Internet, and carry information at  
17 the end user location at information transfer rates exceeding  
18 200 kilobits per second ("kbps") in at least one direction.

19 (220 ILCS 5/13-203.4 new)

20 Sec. 13-203.4. "Information service" means the offering of  
21 a capability for generating, acquiring, storing, transforming,  
22 processing, retrieving, utilizing, or making available  
23 information via telecommunications, and includes electronic  
24 publishing, but does not include any use of any such capability  
25 for the management, control, or operation of a  
26 telecommunications system or the management of a  
27 telecommunications service.

28 (220 ILCS 5/13-203.5 new)

29 Sec. 13-203.5. "Internet protocol ("IP") enabled service"

1 means services and applications relying on the Internet  
2 Protocol family, including the digital communications  
3 capabilities of increasingly higher speeds, which use a number  
4 of transmission network technologies, and which generally have  
5 in common the use of the Internet protocol.

6 (220 ILCS 5/13-203.6 new)

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

10 (220 ILCS 5/13-204) (from Ch. 111 2/3, par. 13-204)

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

12 Sec. 13-204. "Local Exchange Telecommunications Service"  
13 means telecommunications service between points within an  
14 exchange, as defined in Section 13-206, or the provision of  
15 telecommunications service for the origination or termination  
16 of switched telecommunications services, but does not include  
17 public mobile services.

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

19 (220 ILCS 5/13-204.5 new)

20 Sec. 13-204.5. "Intrastate switched access service" means  
21 access to the switched network of a telecommunications carrier  
22 for the purpose of originating or terminating communications  
23 between points within the State of Illinois.

24 (220 ILCS 5/13-205) (from Ch. 111 2/3, par. 13-205)

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

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

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

1 (220 ILCS 5/13-209) (from Ch. 111 2/3, par. 13-209)

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

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

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

18 (220 ILCS 5/13-214) (from Ch. 111 2/3, par. 13-214)

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

20 Sec. 13-214. (a) "Public mobile services" means  
21 air-to-ground radio telephone services, cellular radio  
22 telecommunications services, offshore radio, rural radio  
23 service, public land mobile telephone service, and commercial  
24 mobile services, as defined in 47 U.S.C. Section 332(d)(1) and  
25 ~~other common carrier radio communications services.~~

26 ~~(b) "Private radio services" means private land mobile~~  
27 ~~radio services and other communications services characterized~~  
28 ~~by the Commission as private radio services.~~

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

30 (220 ILCS 5/13-216)

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

32 Sec. 13-216. Network element. "Network element" means a

1 facility or equipment used in the provision of a  
2 telecommunications service. The term also includes features,  
3 functions, and capabilities that are provided by means of the  
4 facility or equipment, including, ~~but not limited to,~~  
5 subscriber numbers, databases, signaling systems, and  
6 information sufficient for billing and collection or used in  
7 the transmission, routing, or other provision of a  
8 telecommunications service.

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

10 (220 ILCS 5/13-301) (from Ch. 111 2/3, par. 13-301)

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

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

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

28 (b) establish a program to monitor the level of  
29 telecommunications subscriber connection within each exchange  
30 in Illinois, and shall report the results of such monitoring  
31 and any actions it has taken or recommends be taken to maintain  
32 and increase such levels in its annual report to the General  
33 Assembly, or more often if necessary;

1           (c) (Blank). ~~order all telecommunications carriers~~  
2 ~~offering or providing local exchange telecommunications~~  
3 ~~service to propose low cost or budget service tariffs and any~~  
4 ~~other rate design or pricing mechanisms designed to facilitate~~  
5 ~~customer access to such telecommunications service, and shall~~  
6 ~~after notice and hearing, implement any such proposals which it~~  
7 ~~finds likely to achieve such purpose;~~

8           (d) investigate the necessity of and, if appropriate,  
9 establish a universal service support fund from which local  
10 exchange telecommunications carriers who pursuant to the  
11 Twenty-Seventh Interim Order of the Commission in Docket No.  
12 83-0142 or the orders of the Commission in Docket No. 97-0621  
13 and Docket No. 98-0679 received funding and whose economic  
14 costs of providing services for which universal service support  
15 may be made available exceed the affordable rate established by  
16 the Commission for such services may be eligible to receive  
17 support, less any federal universal service support received  
18 for the same or similar costs of providing the supported  
19 services; provided, however, that if a universal service  
20 support fund is established, the Commission shall require that  
21 all costs of the fund be recovered from all local exchange and  
22 interexchange telecommunications carriers certificated in  
23 Illinois on a competitively neutral and nondiscriminatory  
24 basis. In establishing any such universal service support fund,  
25 the Commission shall, in addition to the determination of costs  
26 for supported services, consider and make findings pursuant to  
27 paragraphs (1), (2), and (4) of item (e) of this Section. Proxy  
28 cost, as determined by the Commission, may be used for this  
29 purpose. In determining cost recovery for any universal service  
30 support fund, the Commission shall not permit recovery of such  
31 costs from another certificated carrier for any service  
32 purchased and used solely as an input to a service provided to  
33 such certificated carrier's retail customers; and

34           (e) investigate the necessity of and, if appropriate,

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

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

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

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

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

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

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



~~procedures by which customers may receive it. Such report shall only be available to current and future customers who have received at least 6 months of continuous local exchange service from such carrier.~~

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

(220 ILCS 5/13-305)

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

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

Notwithstanding any other provision of this Section or Article, if any telecommunications carrier subject to an alternative form of regulation plan that was adopted by the Commission prior to the effective date of this amendatory Act of the 94th General Assembly violates the retail service quality rules promulgated by the Commission pursuant to Section 13-712 or pursuant to such alternative form of regulation plan, the Commission may impose, for any such violation by such telecommunications carrier, maximum civil penalties of up to \$33,000 or 0.00908% of such telecommunications carrier's gross

1 intrastate annual telecommunications revenue, whichever is  
2 greater. This provision for a violation by a telecommunications  
3 carrier subject to an alternative form of regulation plan as of  
4 the effective date of this amendatory Act of the 94th General  
5 Assembly shall remain in force and effect through July 1, 2008.

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

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

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

31 If the party who has violated or failed to comply with this  
32 Act or an order, decision, rule, regulation, direction, or  
33 requirement of the Commission, or any part or provision  
34 thereof, fails to seek timely review pursuant to Sections

1 10-113 and 10-201 of this Act, the party shall, upon expiration  
2 of the statutory time limit, be subject to the civil penalty  
3 provision of this Section.

4 Twenty percent of all moneys collected under this Section  
5 shall be deposited into the Digital Divide Elimination Fund and  
6 20% of all moneys collected under this Section shall be  
7 deposited into the Digital Divide Elimination Infrastructure  
8 Fund.

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

10 (220 ILCS 5/13-400 new)

11 Sec. 13-400. Commission jurisdiction prohibited.

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

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

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

15 (3) any retail service not commercially available on  
16 the effective date of this amendatory Act of the 94th  
17 General Assembly;

18 (4) information services, as defined in Section  
19 13-203.4;

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

22 (6) customer premises equipment, as defined in Section  
23 13-203.6.

24 (b) Notwithstanding the provisions of subsection (a), the  
25 Commission shall have jurisdiction to the extent that it has  
26 been specifically delegated to the Commission by the  
27 Telecommunications Act of 1996 or any successors or amendments  
28 thereof or by orders of and regulations promulgated by the  
29 Federal Communications Commission.

30 (220 ILCS 5/13-401) (from Ch. 111 2/3, par. 13-401)

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

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

1 (a) No telecommunications carrier not possessing a  
2 certificate of public convenience and necessity or certificate  
3 of authority from the Commission at the time this Article goes  
4 into effect shall transact any business in this State until it  
5 shall have obtained a certificate of service authority from the  
6 Commission pursuant to the provisions of this Article.

7 No telecommunications carrier offering or providing, or  
8 seeking to offer or provide, any interexchange  
9 telecommunications service shall do so until it has applied for  
10 and received a Certificate of Interexchange Service Authority  
11 pursuant to the provisions of Section 13-403. No  
12 telecommunications carrier offering or providing, or seeking  
13 to offer or provide, any local exchange telecommunications  
14 service shall do so until it has applied for and received a  
15 Certificate of Exchange Service Authority pursuant to the  
16 provisions of Section 13-405.

17 Notwithstanding Sections 13-403, 13-404, and 13-405, the  
18 Commission shall approve a cellular radio application for a  
19 Certificate of Service Authority without a hearing upon a  
20 showing by the cellular applicant that the Federal  
21 Communications Commission has issued to it a construction  
22 permit or an operating license to construct or operate a  
23 cellular radio system in the area as defined by the Federal  
24 Communications Commission, or portion of the area, for which  
25 the carrier seeks a Certificate of Service Authority.

26 No Certificate of Service Authority issued by the  
27 Commission shall be construed as granting a monopoly or  
28 exclusive privilege, immunity or franchise. The issuance of a  
29 Certificate of Service Authority to any telecommunications  
30 carrier shall not preclude the Commission from issuing  
31 additional Certificates of Service Authority to other  
32 telecommunications carriers providing the same or equivalent  
33 service or serving the same geographical area or customers as  
34 any previously certified carrier, ~~except to the extent~~

1 ~~otherwise provided by Sections 13-403 and 13-405.~~

2 Any certificate of public convenience and necessity  
3 granted by the Commission to a telecommunications carrier prior  
4 to the effective date of this Article shall remain in full  
5 force and effect, and such carriers need not apply for a  
6 Certificate of Service Authority in order to continue offering  
7 or providing service to the extent authorized in such  
8 certificate of public convenience and necessity. Any such  
9 carrier, however, prior to substantially altering the nature or  
10 scope of services provided under a certificate of public  
11 convenience and necessity, or adding or expanding services  
12 beyond the authority contained in such certificate, must apply  
13 for a Certificate of Service Authority for such alterations or  
14 additions pursuant to the provisions of this Article.

15 The Commission shall review and modify the terms of any  
16 certificate of public convenience and necessity issued to a  
17 telecommunications carrier prior to the effective date of this  
18 Article in order to ensure its conformity with the requirements  
19 and policies of this Article. Any Certificate of Service  
20 Authority may be altered or modified by the Commission, after  
21 notice and hearing, upon its own motion or upon application of  
22 the person or company affected. Unless exercised within a  
23 period of two years from the issuance thereof, authority  
24 conferred by a Certificate of Service Authority shall be null  
25 and void.

26 (b) The Commission may issue a temporary Certificate which  
27 shall remain in force not to exceed one year in cases of  
28 emergency, to assure maintenance of adequate service or to  
29 serve particular customers, without notice and hearing,  
30 pending the determination of an application for a Certificate,  
31 and may by regulation exempt from the requirements of this  
32 Section temporary acts or operations for which the issuance of  
33 a certificate is not necessary in the public interest and which  
34 will not be required therefor.

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

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

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

4 Sec. 13-403. Interexchange service authority; approval.  
5 The Commission shall approve an application for a Certificate  
6 of Interexchange Service Authority only upon a showing by the  
7 applicant, and a finding by the Commission, after notice and  
8 hearing, that the applicant possesses sufficient technical,  
9 financial and managerial resources and abilities to provide  
10 interexchange telecommunications service. ~~The removal from  
11 this Section of the dialing restrictions by this amendatory Act  
12 of 1992 does not create any legislative presumption for or  
13 against intra Market Service Area presubscription or changes  
14 in intra Market Service Area dialing arrangements related to  
15 the implementation of that presubscription, but simply vests  
16 jurisdiction in the Illinois Commerce Commission to consider  
17 after notice and hearing the issue of presubscription in  
18 accordance with the policy goals outlined in Section 13-103.~~

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

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

31 (220 ILCS 5/13-406) (from Ch. 111 2/3, par. 13-406)

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

1       Sec. 13-406. No telecommunications carrier offering or  
2 providing noncompetitive telecommunications service pursuant  
3 to a valid Certificate of Service Authority or certificate of  
4 public convenience and necessity or price-capped competitive  
5 telecommunications service pursuant to subsection (b) of  
6 13-506.1 shall discontinue or abandon such service once  
7 initiated until and unless it shall demonstrate, and the  
8 Commission finds, after notice and hearing, that such  
9 discontinuance or abandonment will not deprive customers of any  
10 necessary or essential telecommunications service or access  
11 thereto and is not otherwise contrary to the public interest.  
12 No telecommunications carrier offering or providing  
13 competitive telecommunications service shall discontinue or  
14 abandon such service once initiated except upon 30 days notice  
15 to the Commission and affected customers. ~~The Commission may,~~  
16 ~~upon its own motion or upon complaint, investigate the proposed~~  
17 ~~discontinuance or abandonment of a competitive~~  
18 ~~telecommunications service and may, after notice and hearing,~~  
19 ~~prohibit such proposed discontinuance or abandonment if the~~  
20 ~~Commission finds that it would be contrary to the public~~  
21 ~~interest.~~

22       (Source: P.A. 84-1063.)

23       (220 ILCS 5/13-407) (from Ch. 111 2/3, par. 13-407)

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

25       Sec. 13-407. Commission study and report. The Commission  
26 shall monitor and analyze patterns of entry and exit and  
27 changes in patterns of entry and exit for each relevant market  
28 for telecommunications services, including ~~emerging~~ high speed  
29 telecommunications markets and all services defined in  
30 Sections 13-203.2, 13-203.3, 13-203.4, and 13-203.5, and shall  
31 include its findings together with appropriate recommendations  
32 for legislative action in its annual report to the General  
33 Assembly.

1           The Commission shall also monitor and analyze the status of  
2 deployment of services to consumers, and any resulting "digital  
3 divisions" between consumers, including any changes or trends  
4 therein. The Commission shall include its findings together  
5 with appropriate recommendations for legislative action in its  
6 annual report to the General Assembly. In preparing this  
7 analysis the Commission shall evaluate information provided by  
8 telecommunications carriers that pertains to the state of  
9 competition in telecommunications markets including, but not  
10 limited to:

11           (1) the number and type of firms providing  
12 communications ~~telecommunications~~ services, including the  
13 services defined in Sections 13-203.2, 13-203.3, and  
14 13-203.5 ~~broadband telecommunications services~~, within the  
15 State;

16           (2) the communications ~~telecommunications~~ services  
17 offered by these firms to both retail and wholesale  
18 customers;

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

22           (4) the technologies or methods by which these firms  
23 provide these services, including descriptions of  
24 technologies in place and under development, and the degree  
25 to which firms rely on other ~~wholesale~~ providers to provide  
26 service to their own customers; and

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

29           The Commission shall at a minimum assess the variability in  
30 this information according to geography, examining variability  
31 by exchange, wirecenter, or zip code, and by customer class,  
32 examining, at a minimum, the variability between residential  
33 and small, medium, and large business customers. The Commission  
34 shall provide an analysis of market trends by collecting this



1 information from firms providing communications  
2 ~~telecommunications~~ services within the State. The Commission  
3 shall also collect all information, in a format determined by  
4 the Commission, that the Commission deems necessary to assist  
5 in monitoring and analyzing the communications  
6 ~~telecommunications~~ markets and the status of competition and  
7 deployment of communications ~~telecommunications~~ services to  
8 consumers in the State.

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

10 (220 ILCS 5/13-501) (from Ch. 111 2/3, par. 13-501)

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

12 Sec. 13-501. Tariff; filing.

13 (a) No telecommunications carrier shall offer or provide  
14 telecommunications service to a residential end user unless and  
15 until a tariff is filed with the Commission which describes the  
16 nature of the service, applicable rates and other charges,  
17 terms and conditions of service, and the exchange, exchanges or  
18 other geographical area or areas in which the service shall be  
19 offered or provided. The Commission may prescribe the form of  
20 such tariff regarding a telecommunications service offered or  
21 provided to a residential end user and any additional data or  
22 information which shall be included therein. A  
23 telecommunications carrier that offers or provides a  
24 telecommunications service to business end users may file a  
25 tariff with the Commission that describes the nature of the  
26 service, applicable rates and other charges, terms and  
27 conditions of service, and the exchange, exchanges or other  
28 geographical area or areas in which the service will be offered  
29 or provided.

30 (b) After a hearing on noncompetitive services or a hearing  
31 pursuant to subsection (d) of Section 13-505 for competitive  
32 services, the Commission has the discretion to impose an  
33 interim or permanent tariff on a telecommunications carrier as

1 part of the order in the case. When a tariff is imposed as part  
2 of the order in a case, the tariff shall remain in full force  
3 and effect until a compliance tariff, or superseding tariff, is  
4 filed by the telecommunications carrier and, after notice to  
5 the parties in the case and after a compliance hearing is held,  
6 is found by the Commission to be in compliance with the  
7 Commission's order.

8 (c) Nothing in this Section shall be construed to require a  
9 telecommunications carrier to tariff special equipment and  
10 service arrangements when provided to meet the unique  
11 telecommunications services requirements of a small number of  
12 customers.

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

14 (220 ILCS 5/13-502) (from Ch. 111 2/3, par. 13-502)

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

16 Sec. 13-502. Classification of services.

17 (a) All telecommunications services offered or provided  
18 under tariff by telecommunications carriers shall be  
19 classified as either competitive or noncompetitive. A  
20 telecommunications carrier may offer or provide either  
21 competitive or noncompetitive telecommunications services, or  
22 both, subject to proper certification and other applicable  
23 provisions of this Article. Any tariff filed with the  
24 Commission as required by Section 13-501 shall indicate whether  
25 the service to be offered or provided is competitive or  
26 noncompetitive.

27 (a-5) All telecommunications services offered or provided  
28 by any telecommunications carrier, including, without  
29 limitation, all existing or future telecommunications  
30 services, facilities, features, or functionalities, shall be  
31 classified as competitive as of the effective date of this  
32 amendatory Act of the 94th General Assembly without further  
33 Commission review, except as provided in this subsection. The

1 competitive classification provided in this subsection shall  
2 apply to the telecommunications services offered or provided by  
3 any telecommunications carrier that, on or after the effective  
4 date of this amendatory Act of the 94th General Assembly, has  
5 entered into an approved interconnection agreement with one or  
6 more unaffiliated competitive carriers as a result of  
7 negotiations or arbitrations, pursuant to the provisions of  
8 Section 251 of the federal Telecommunications Act of 1996 or  
9 any successors or amendments thereof.

10 (b) For a telecommunications carrier that has not entered  
11 into an approved interconnection agreement in accordance with  
12 subsection (a-5), a ~~A~~ service shall be classified as  
13 competitive only if, and only to the extent that, for some  
14 identifiable class or group of customers in an exchange, group  
15 of exchanges, or some other clearly defined geographical area,  
16 such service, or its functional equivalent, or a substitute  
17 service, is reasonably available from more than one provider,  
18 whether or not any such provider is a telecommunications  
19 carrier subject to regulation under this Act. All  
20 telecommunications services not properly classified as  
21 competitive shall be classified as noncompetitive. The  
22 Commission shall have the power to investigate the propriety of  
23 any classification of a telecommunications service on its own  
24 motion and shall investigate upon complaint. In any hearing or  
25 investigation, the burden of proof as to the proper  
26 classification of any service shall rest upon the  
27 telecommunications carrier providing the service. After notice  
28 and hearing, the Commission shall order the proper  
29 classification of any service in whole or in part. The  
30 Commission shall make its determination and issue its final  
31 order no later than 180 days from the date such hearing or  
32 investigation is initiated. If the Commission enters into a  
33 hearing upon complaint and if the Commission fails to issue an  
34 order within that period, the complaint shall be deemed granted

1 unless the Commission, the complainant, and the  
2 telecommunications carrier providing the service agree to  
3 extend the time period.

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

7 (1) the number, size, and geographic distribution of  
8 other providers of the service;

9 (2) the availability of functionally equivalent  
10 services in the relevant geographic area and the ability of  
11 telecommunications carriers or other persons to make the  
12 same, equivalent, or substitutable service readily  
13 available in the relevant market at comparable rates,  
14 terms, and conditions;

15 (3) the existence of economic, technological, or any  
16 other barriers to entry into, or exit from, the relevant  
17 market;

18 (4) the extent to which other telecommunications  
19 companies must rely upon the service of another  
20 telecommunications carrier to provide telecommunications  
21 service; and

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

24 (d) No tariff classifying a new telecommunications service  
25 as competitive or reclassifying a previously noncompetitive  
26 telecommunications service as competitive, which is filed by a  
27 telecommunications carrier subject to subsection (b) which  
28 also offers or provides noncompetitive telecommunications  
29 service, shall be effective unless and until such  
30 telecommunications carrier offering or providing, or seeking  
31 to offer or provide, such proposed competitive service prepares  
32 and files a study of the long-run service incremental cost  
33 underlying such service and demonstrates that the tariffed  
34 rates and charges for the service and any relevant group of

1 services that includes the proposed competitive service and for  
2 which resources are used in common solely by that group of  
3 services are not less than the long-run service incremental  
4 cost of providing the service and each relevant group of  
5 services. Such study shall be given proprietary treatment by  
6 the Commission at the request of such carrier if any other  
7 provider of the competitive service, its functional  
8 equivalent, or a substitute service in the geographical area  
9 described by the proposed tariff has not filed, or has not been  
10 required to file, such a study.

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

24 (f) If no hearing or investigation regarding the propriety  
25 of a competitive classification of a telecommunications  
26 service is initiated within 180 days after a telecommunications  
27 carrier files a tariff listing such telecommunications service  
28 as competitive, no refunds to customers for any overcharges  
29 which may result from an improper classification shall be  
30 ordered for the period from the time the telecommunications  
31 carrier filed such tariff listing the service as competitive up  
32 to the time an investigation of the service classification is  
33 initiated by the Commission's own motion or the filing of a  
34 complaint. Where a hearing or an investigation regarding the

1 propriety of a telecommunications service classification as  
2 competitive is initiated after 180 days from the filing of the  
3 tariff, the period subject to refund for improper  
4 classification shall begin on the date such investigation or  
5 hearing is initiated by the filing of a Commission motion or a  
6 complaint. This subsection (f) does not apply to any  
7 telecommunications services that have been classified as  
8 competitive pursuant to subsection (a-5).

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

10 (220 ILCS 5/13-504) (from Ch. 111 2/3, par. 13-504)

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

12 Sec. 13-504. Application of ratemaking provisions of  
13 Article IX.

14 (a) Except where the context clearly renders such  
15 provisions inapplicable, the ratemaking provisions of Article  
16 IX of this Act relating to public utilities are fully and  
17 equally applicable to the rates, charges, tariffs and  
18 classifications for the offer or provision of noncompetitive  
19 telecommunications services. However, the ratemaking  
20 provisions do not apply to any proposed change in rates or  
21 charges, any proposed change in any classification or tariff  
22 resulting in a change in rates or charges, or the establishment  
23 of new services and rates therefor for a noncompetitive local  
24 exchange telecommunications service offered or provided by a  
25 local exchange telecommunications carrier with no more than  
26 35,000 subscriber access lines. Proposed changes in rates,  
27 charges, classifications, or tariffs meeting these criteria  
28 shall be permitted upon the filing of the proposed tariff and  
29 30 days notice to the Commission and all potentially affected  
30 customers. The proposed changes shall not be subject to  
31 suspension. The Commission shall investigate whether any  
32 proposed change is just and reasonable only if a  
33 telecommunications carrier that is a customer of the local

1 exchange telecommunications carrier or 10% of the potentially  
2 affected access line subscribers of the local exchange  
3 telecommunications carrier shall file a petition or complaint  
4 requesting an investigation of the proposed changes. When the  
5 telecommunications carrier or 10% of the potentially affected  
6 access line subscribers of a local exchange telecommunications  
7 carrier file a complaint, the Commission shall, after notice  
8 and hearing, have the power and duty to establish the rates,  
9 charges, classifications, or tariffs it finds to be just and  
10 reasonable.

11 (b) Subsection (c) of Section 13-502 and Sections 13-505.1~~7~~  
12 ~~13-505.4, 13-505.6,~~ and 13-507 of this Article do not apply to  
13 rates or charges or proposed changes in rates or charges for  
14 applicable competitive or interexchange services when offered  
15 or provided by a local exchange telecommunications carrier with  
16 no more than 35,000 subscriber access lines. In addition,  
17 Sections 13-514, 13-515, and 13-516 do not apply to  
18 telecommunications carriers with no more than 35,000  
19 subscriber access lines. The Commission may require  
20 telecommunications carriers with no more than 35,000  
21 subscriber access lines to furnish information that the  
22 Commission deems necessary for a determination that rates and  
23 charges for any competitive telecommunications service are  
24 just and reasonable.

25 (c) For a local exchange telecommunications carrier with no  
26 more than 35,000 access lines, the Commission shall consider  
27 and adjust, as appropriate, a local exchange  
28 telecommunications carrier's depreciation rates only in  
29 ratemaking proceedings.

30 (d) Article VI and ~~Sections 7-101 and 7-102 of~~ Article VII  
31 of this Act pertaining to public utilities, public utility  
32 rates and services, and the regulation thereof are not  
33 applicable to local exchange telecommunication carriers with  
34 no more than 35,000 subscriber access lines.

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

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

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

4 Sec. 13-505. Price Rate changes and cost studies,  
5 ~~competitive services.~~

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

15 (b) Notwithstanding any of the other provisions in Section  
16 9-201 or Section 13-504, as applicable, any proposed increase  
17 or decrease in the rates or charges of non-competitive  
18 telecommunications services shall be effective 15 days after  
19 filing with the Commission. Prior notice of an increase or  
20 decrease shall be given to all potentially affected customers  
21 by mail, publication in a newspaper of general circulation, or  
22 equivalent means of notice. If a hearing is held pursuant to  
23 Section 9-250 regarding the reasonableness of an increase in  
24 the rates or charges of a competitive local exchange service,  
25 then the telecommunications carrier providing the service  
26 shall have the burden of proof to establish the justness and  
27 reasonableness of the proposed rate or charge.

28 (c) The Commission shall not require a cost study to be  
29 filed for the following: (i) any statutory reclassification of  
30 a service pursuant to subsection (a-5) of Section 13-502 of  
31 this Article; (ii) any price increase for any competitive or  
32 noncompetitive telecommunications service; (iii) any retail  
33 service package filed pursuant to Section 13-518.1 or any price



1 increase or decrease to such service package; or (iv) any new  
2 retail service offering, including new or revised features and  
3 functionalities of an existing service.

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

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

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

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

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

33 (Source: P.A. 90-185, eff. 7-23-97; 90-574, eff. 3-20-98;  
34 90-655, eff. 7-30-98.)

1 (220 ILCS 5/13-506.1) (from Ch. 111 2/3, par. 13-506.1)

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

3 Sec. 13-506.1. Alternative form ~~forms~~ of regulation ~~for~~  
4 ~~noncompetitive services.~~

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

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

1           (1) recognize the significant level of retail  
2           competition in the communications industry and the  
3           convergence of technologies; ~~reduce regulatory delay and~~  
4           ~~costs over time;~~

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

6           (3) ~~(2)~~ encourage innovation in services;

7           (4) ~~(3)~~ promote efficiency;

8           (5) ~~(4)~~ facilitate the broad dissemination of  
9           technical improvements to all end users ~~classes of~~  
10           ~~ratepayers;~~

11           (6) ~~(5)~~ enhance economic development of the State; ~~and~~

12           (7) ~~(6)~~ provide for market-based pricing of retail  
13           telecommunications services in a competitive  
14           communications environment. ~~fair, just, and reasonable~~  
15           ~~rates.~~

16           ~~(b) A telecommunications carrier providing noncompetitive~~  
17           ~~telecommunications services may petition the Commission to~~  
18           ~~regulate the rates or charges of its noncompetitive services~~  
19           ~~under an alternative form of regulation. The~~  
20           ~~telecommunications carrier shall submit with its petition its~~  
21           ~~plan for an alternative form of regulation. The Commission~~  
22           ~~shall review and may modify or reject the carrier's proposed~~  
23           ~~plan. The Commission also may initiate consideration of~~  
24           ~~alternative forms of regulation for a telecommunications~~  
25           ~~carrier on its own motion. The Commission may approve the plan~~  
26           ~~or modified plan and authorize its implementation only if it~~  
27           ~~finds, after notice and hearing, that the plan or modified plan~~  
28           ~~at a minimum:~~

29           The General Assembly further finds that such a plan:

30           (1) is in the public interest;

31           ~~(2) will produce fair, just, and reasonable rates for~~  
32           ~~telecommunications services;~~

33           ~~(3) responds to changes in technology and the structure~~  
34           ~~of the telecommunications industry that are, in fact,~~

1 ~~occurring;~~

2 ~~(4) constitutes a more appropriate form of regulation~~  
3 ~~based on the Commission's overall consideration of the~~  
4 ~~policy goals set forth in Section 13-103 and this Section;~~

5 ~~(5) specifically identifies how ratepayers will~~  
6 ~~benefit from any efficiency gains, cost savings arising out~~  
7 ~~of the regulatory change, and improvements in productivity~~  
8 ~~due to technological change;~~

9 (2) (6) will maintain the quality and availability of  
10 retail telecommunications services; and

11 (3) (7) will not unduly or unreasonably prejudice or  
12 disadvantage any particular customer class, including  
13 non-qualifying telecommunications carriers.

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

28 (1) All price-capped competitive telecommunications  
29 services, as defined in this Section, offered or provided  
30 by any qualifying telecommunications carrier shall be  
31 included in the basic dial tone protection plan. All other  
32 competitive telecommunications services shall be excluded  
33 from such plan.

34 (2) The rates for price-capped competitive

1 telecommunications services shall not exceed the rates  
2 that the telecommunications carrier charged for those  
3 services on February 1, 2005; this restriction upon the  
4 rates of such price-capped competitive telecommunications  
5 services shall remain in full force and effect through July  
6 1, 2008; provided, however, that nothing shall be construed  
7 to prohibit reduction of those rates;

8 (3) Notwithstanding any other provision in this  
9 Section or Article, a telecommunications carrier that  
10 elects to be subject to a dial tone protection plan  
11 pursuant to this Section shall continue to offer the  
12 price-capped competitive telecommunications services at  
13 all times through July 1, 2008;

14 (4) Notwithstanding any other provision in this  
15 Section or Article, any residential end user may elect to  
16 purchase price-capped competitive telecommunications  
17 service at any time through July 1, 2008 and, to the extent  
18 that such residential end user elects to change service  
19 from a retail service package not subject to such dial tone  
20 protection plan to price-capped competitive  
21 telecommunications service, any applicable termination  
22 provisions of the retail service package shall apply, but  
23 only if such residential end user has been clearly informed  
24 of the existence of any term and termination fees at the  
25 time such residential end user ordered such service  
26 package; and

27 (5) No other terms from any plan adopted under prior  
28 Commission authority shall be required under subsection  
29 (b), except to the extent set forth in Section 13-712  
30 (e-10) regarding retail service quality measures,  
31 exclusions, calculations, and standards for any  
32 telecommunications carrier subject to an alternative form  
33 of regulation plan on the effective date of this amendatory  
34 Act of the 94th General Assembly.

1       (c) For purposes of subsection (b) of this Section: (i)  
2       "price-capped competitive telecommunications service" means  
3       the stand-alone primary residence network access lines, along  
4       with any associated untimed local usage charged on a per-call  
5       basis and not subject to presubscription (for purposes of this  
6       subsection, a primary residence network access line with such  
7       usage shall be considered a stand-alone offering subject to  
8       price cap, notwithstanding the purchase by the customer of  
9       additional service elements, features or functionalities for  
10       such line, so long as such additional service elements,  
11       features, or functionalities are purchased on an individual  
12       basis, and not as part of a service package, the additional  
13       service elements, features, or functionalities for such line  
14       shall not be subject to price cap); and (ii) a "qualifying  
15       telecommunications carrier" is any incumbent local exchange  
16       carrier that has entered into an approved interconnection  
17       agreement with one or more unaffiliated competitive carriers as  
18       a result of negotiations or arbitration pursuant to the  
19       provisions of Section 251 of the federal Telecommunications Act  
20       of 1996 or any successors or amendments thereof.

21       ~~(c) An alternative regulation plan approved under this~~  
22       ~~Section shall provide, as a condition for Commission approval~~  
23       ~~of the plan, that for the first 3 years the plan is in effect,~~  
24       ~~basic residence service rates shall be no higher than those~~  
25       ~~rates in effect 180 days before the filing of the plan. This~~  
26       ~~provision shall not be used as a justification or rationale for~~  
27       ~~an increase in basic service rates for any other customer~~  
28       ~~class. For purposes of this Section, "basic residence service~~  
29       ~~rates" shall mean monthly recurring charges for the~~  
30       ~~telecommunications carrier's lowest priced primary residence~~  
31       ~~network access lines, along with any associated untimed or flat~~  
32       ~~rate local usage charges. Nothing in this subsection (c) shall~~  
33       ~~preclude the Commission from approving an alternative~~  
34       ~~regulation plan that results in rate reductions provided all~~



1 ~~the requirements of subsection (b) are satisfied by the plan.~~

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

6 ~~(e) Upon petition by the telecommunications carrier or any~~  
7 ~~other person or upon its own motion, the Commission may rescind~~  
8 ~~its approval of an alternative form of regulation if, after~~  
9 ~~notice and hearing, it finds that the conditions set forth in~~  
10 ~~subsection (b) of this Section can no longer be satisfied. Any~~  
11 ~~person may file a complaint alleging that the rates charged by~~  
12 ~~a telecommunications carrier under an alternative form of~~  
13 ~~regulation are unfair, unjust, unreasonable, unduly~~  
14 ~~discriminatory, or are otherwise not consistent with the~~  
15 ~~requirements of this Article; provided, that the complainant~~  
16 ~~shall bear the burden of proving the allegations in the~~  
17 ~~complaint.~~

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

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

22 (220 ILCS 5/13-509) (from Ch. 111 2/3, par. 13-509)

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

24 Sec. 13-509. Agreements for provisions of competitive  
25 telecommunications services differing from tariffs. A  
26 telecommunications carrier may negotiate with customers or  
27 prospective customers to provide competitive  
28 telecommunications service, and in so doing, may offer or agree  
29 to provide such service ~~on such terms and for such rates or~~  
30 ~~charges as are reasonable,~~ without regard to any tariffs it may  
31 have filed with the Commission with respect to such services.  
32 Within 30 days after executing any such agreement, the  
33 telecommunications carrier shall submit to the Commission

1 written notice of a list of any such agreements (which list may  
2 be filed electronically). The notice shall identify the general  
3 nature of all such agreements, the parties to each agreement,  
4 and a general description of differences between each agreement  
5 and the related tariff. A copy of each such agreement ~~and any~~  
6 ~~cost support required to be filed with the agreement by some~~  
7 ~~other Section of this Act~~ shall be provided to the Commission  
8 within 10 business days after a request for review of the  
9 agreement is made by the Commission or is made to the  
10 Commission by another telecommunications carrier. Upon  
11 submitting notice to the Commission of any such agreement, the  
12 telecommunications carrier shall thereafter provide service  
13 according to the terms thereof, ~~unless the Commission finds,~~  
14 ~~after notice and hearing, that the continued provision of~~  
15 ~~service pursuant to such agreement would substantially and~~  
16 ~~adversely affect the financial integrity of the~~  
17 ~~telecommunications carrier or would violate any other~~  
18 ~~provision of this Act.~~ This Section does not apply to the  
19 provision of competitive telecommunications services offered  
20 or provided to business end users by a telecommunications  
21 carrier that does not file tariffs for such business services  
22 pursuant to Section 13-501.

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

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

27 (220 ILCS 5/13-514)

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

29 Sec. 13-514. Prohibited Actions of Telecommunications  
30 Carriers. A telecommunications carrier shall not knowingly  
31 impede the development of competition in any  
32 telecommunications service market. The following prohibited  
33 actions are considered per se impediments to the development of

1 competition; however, the Commission is not limited in any  
2 manner to these enumerated impediments and may consider other  
3 actions which impede competition to be prohibited:

4 (1) unreasonably refusing or delaying interconnections or  
5 collocation or providing inferior connections to another  
6 telecommunications carrier;

7 (2) unreasonably impairing the speed, quality, or  
8 efficiency of services used by another telecommunications  
9 carrier;

10 (3) unreasonably denying a request of another provider for  
11 information regarding the technical design and features,  
12 geographic coverage, information necessary for the design of  
13 equipment, and traffic capabilities of the local exchange  
14 network except for proprietary information unless such  
15 information is subject to a proprietary agreement or protective  
16 order;

17 (4) unreasonably delaying access in connecting another  
18 telecommunications carrier to the local exchange network whose  
19 product or service requires novel or specialized access  
20 requirements;

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

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

27 (7) unreasonably failing to offer services to customers in  
28 a local exchange, where a telecommunications carrier is  
29 certificated to provide service and has entered into an  
30 interconnection agreement for the provision of local exchange  
31 telecommunications services, with the intent to delay or impede  
32 the ability of the incumbent local exchange telecommunications  
33 carrier to provide inter-LATA telecommunications services;

34 (8) violating the terms of or unreasonably delaying

1 implementation of an interconnection agreement entered into  
2 pursuant to Section 252 of the federal Telecommunications Act  
3 of 1996 in a manner that unreasonably delays, increases the  
4 cost, or impedes the availability of telecommunications  
5 services to consumers;

6 (9) unreasonably refusing or delaying access to or  
7 provision of operation support systems to another  
8 telecommunications carrier or providing inferior operation  
9 support systems to another telecommunications carrier;

10 (10) unreasonably failing to offer network elements that  
11 ~~the Commission or~~ the Federal Communications Commission has  
12 determined must be offered on an unbundled basis to another  
13 telecommunications carrier in a manner consistent with the  
14 ~~Commission's or~~ Federal Communications Commission's orders or  
15 rules requiring such offerings;

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

17 (12) violating an order of the Commission regarding matters  
18 between telecommunications carriers.

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

20 (220 ILCS 5/13-515)

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

22 Sec. 13-515. Enforcement.

23 (a) The following expedited procedures shall be used to  
24 enforce the provisions of Section 13-514 of this Act. However,  
25 the Commission, the complainant, and the respondent may  
26 mutually agree to adjust the procedures established in this  
27 Section.

28 (b) (Blank).

29 (c) No complaint may be filed under this Section until the  
30 complainant has first notified the respondent of the alleged  
31 violation and offered the respondent 5 business days ~~48 hours~~  
32 to correct the situation. Provision of notice and the  
33 opportunity to correct the situation creates a rebuttable

1 presumption of knowledge under Section 13-514. After the filing  
2 of a complaint under this Section, the parties may agree to  
3 follow the mediation process under Section 10-101.1 of this  
4 Act. The time periods specified in subdivision (d) (7) of this  
5 Section shall be tolled during the time spent in mediation  
6 under Section 10-101.1.

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

10 (1) The complaint shall be filed with the Chief Clerk  
11 of the Commission and shall be served in hand upon the  
12 respondent, the executive director, and the general  
13 counsel of the Commission at the time of the filing.

14 (2) A complaint filed under this subsection shall  
15 include a statement that the requirements of subsection (c)  
16 have been fulfilled and that the respondent did not correct  
17 the situation as requested.

18 (3) Reasonable discovery specific to the issue of the  
19 complaint may commence upon filing of the complaint.  
20 Requests for discovery must be served in hand and responses  
21 to discovery must be provided in hand to the requester  
22 within 14 days after a request for discovery is made.

23 (4) An answer and any other responsive pleading to the  
24 complaint shall be filed with the Commission and served in  
25 hand at the same time upon the complainant, the executive  
26 director, and the general counsel of the Commission within  
27 7 days after the date on which the complaint is filed.

28 (5) If the answer or responsive pleading raises the  
29 issue that the complaint violates subsection (i) of this  
30 Section, the complainant may file a reply to such  
31 allegation within 3 days after actual service of such  
32 answer or responsive pleading. Within 4 days after the time  
33 for filing a reply has expired, the hearing officer or  
34 arbitrator shall either issue a written decision

1 dismissing the complaint as frivolous in violation of  
2 subsection (i) of this Section including the reasons for  
3 such disposition or shall issue an order directing that the  
4 complaint shall proceed.

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

7 (7) The hearing shall commence within 30 days of the  
8 date on which the complaint is filed. The hearing may be  
9 conducted by a hearing examiner or by an arbitrator.  
10 Parties and the Commission staff shall be entitled to  
11 present evidence and legal argument in oral or written form  
12 as deemed appropriate by the hearing examiner or  
13 arbitrator. The hearing examiner or arbitrator shall issue  
14 a written decision within 60 days after the date on which  
15 the complaint is filed. The decision shall include reasons  
16 for the disposition of the complaint and, if a violation of  
17 Section 13-514 is found, directions and a deadline for  
18 correction of the violation.

19 (8) Any party may file a petition requesting the  
20 Commission to review the decision of the hearing examiner  
21 or arbitrator within 5 days of such decision. Any party may  
22 file a response to a petition for review within 3 business  
23 days after actual service of the petition. After the time  
24 for filing of the petition for review, but no later than 15  
25 days after the decision of the hearing examiner or  
26 arbitrator, the Commission shall decide to adopt the  
27 decision of the hearing examiner or arbitrator or shall  
28 issue its own final order.

29 (e) If the alleged violation has a substantial adverse  
30 effect on the ability of the complainant to provide service to  
31 customers, the complainant may include in its complaint a  
32 request for an order for emergency relief. The Commission,  
33 acting through its designated hearing examiner or arbitrator,  
34 shall act upon such a request within 2 business days of the

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

21 (f) The Commission is authorized to obtain outside  
22 resources including, but not limited to, arbitrators and  
23 consultants for the purposes of the hearings authorized by this  
24 Section. Any arbitrator or consultant obtained by the  
25 Commission shall be approved by both parties to the hearing.  
26 The cost of such outside resources including, but not limited  
27 to, arbitrators and consultants shall be borne by the parties.  
28 The Commission shall review the bill for reasonableness and  
29 assess the parties for reasonable costs dividing the costs  
30 according to the resolution of the complaint brought under this  
31 Section. Such costs shall be paid by the parties directly to  
32 the arbitrators, consultants, and other providers of outside  
33 resources within 60 days after receiving notice of the  
34 assessments from the Commission. Interest at the statutory rate

1 shall accrue after expiration of the 60-day period. The  
2 Commission, arbitrators, consultants, or other providers of  
3 outside resources may apply to a court of competent  
4 jurisdiction for an order requiring payment.

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

21 (h) If the Commission determines that there is an imminent  
22 threat to competition or to the public interest, the Commission  
23 may, notwithstanding any other provision of this Act, seek  
24 temporary, preliminary, or permanent injunctive relief from a  
25 court of competent jurisdiction either prior to or after the  
26 hearing.

27 (i) A party shall not bring or defend a proceeding brought  
28 under this Section or assert or controvert an issue in a  
29 proceeding brought under this Section, unless there is a  
30 non-frivolous basis for doing so. By presenting a pleading,  
31 written motion, or other paper in complaint or defense of the  
32 actions or inaction of a party under this Section, a party is  
33 certifying to the Commission that to the best of that party's  
34 knowledge, information, and belief, formed after a reasonable



1 inquiry of the subject matter of the complaint or defense, that  
2 the complaint or defense is well grounded in law and fact, and  
3 under the circumstances:

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

8 (2) the allegations and other factual contentions have  
9 evidentiary support or, if specifically so identified, are  
10 likely to have evidentiary support after reasonable  
11 opportunity for further investigation or discovery as  
12 defined herein.

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

22 (k) An appeal of a Commission Order made pursuant to this  
23 Section shall not effectuate a stay of the Order unless a court  
24 of competent jurisdiction specifically finds that the party  
25 seeking the stay will likely succeed on the merits, that the  
26 party will suffer irreparable harm without the stay, and that  
27 the stay is in the public interest.

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

29 (220 ILCS 5/13-517)

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

31 Sec. 13-517. Provision of advanced telecommunications  
32 services.

33 (a) Every Incumbent Local Exchange Carrier ~~Local Exchange~~

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

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

21 (1) is necessary:

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

24 (B) to avoid imposing a requirement that is unduly  
25 economically burdensome;

26 (C) to avoid imposing a requirement that is  
27 technically infeasible; or

28 (D) to avoid imposing a requirement that is  
29 otherwise impractical to implement in exchanges with  
30 low population density; and

31 (2) is consistent with the public interest,  
32 convenience, and necessity.

33 The Commission shall act upon any petition filed under this  
34 subsection within 180 days after receiving such petition. The

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

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

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

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

23 (220 ILCS 5/13-518.1 new)

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

26 (1) A telecommunications carrier may offer retail  
27 telecommunications services, both competitive and  
28 noncompetitive, and non-regulated services or products, in  
29 a package to residential and business end users so long as  
30 the total price of such service package exceeds the  
31 long-run service incremental cost of the  
32 telecommunications services included in the service  
33 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 services nor a  
15 noncompetitive telecommunications services 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

1 power to inquire into, or require the submission of, the terms,  
2 conditions or agreements by or under which telephone  
3 cooperatives are financed. A telephone cooperative shall file  
4 with the Commission either a copy of the annual financial  
5 report required by the Rural Electrification Administration,  
6 or the annual financial report required of other public  
7 utilities.

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

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

11 (220 ILCS 5/13-712)

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

13 Sec. 13-712. Basic local exchange service quality;  
14 customer credits.

15 (a) It is the intent of the General Assembly that every  
16 telecommunications carrier meet minimum service quality  
17 standards in providing basic local exchange service on a  
18 non-discriminatory basis to all classes of customers.

19 (b) Definitions:

20 (1) "Alternative telephone service" means, except  
21 where technically impracticable, a wireless telephone  
22 capable of making local calls, and may also include, but is  
23 not limited to, call forwarding, voice mail, or paging  
24 services.

25 (2) "Basic local exchange service" means residential  
26 and business lines used for local exchange  
27 telecommunications service as defined in Section 13-204 of  
28 this Act, excluding:

29 (A) services that employ advanced  
30 telecommunications capability as defined in Section  
31 706(c)(1) of the federal Telecommunications Act of  
32 1996;

33 (B) vertical services;

1 (C) company official lines; and

2 (D) records work only.

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

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

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

29 (1) Install basic local exchange service within 5  
30 business days after receipt of an order from the customer  
31 unless the customer requests an installation date that is  
32 beyond 5 business days after placing the order for basic  
33 service and to inform the customer of its duty to install  
34 service within this timeframe. If installation of service

1 is requested on or by a date more than 5 business days in  
2 the future, the telecommunications carrier shall install  
3 service by the date requested. A telecommunications  
4 carrier offering basic local exchange service utilizing  
5 the network or network elements of another carrier shall  
6 install new lines for basic local exchange service within 3  
7 business days after provisioning of the line or lines by  
8 the carrier whose network or network elements are being  
9 utilized is complete. This subdivision (d)(1) does not  
10 apply to the migration of a customer between  
11 telecommunications carriers, so long as the customer  
12 maintains dial tone.

13 (2) Restore basic local exchange service for a customer  
14 within 24 hours of receiving notice that a customer is out  
15 of service. This provision applies to service disruptions  
16 that occur when a customer switches existing basic local  
17 exchange service from one carrier to another.

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

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

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

34 (1) If a carrier fails to repair an out-of-service

1 condition for basic local exchange service within 24 hours,  
2 the carrier shall provide a credit to the customer. If the  
3 service disruption is for 48 hours or less, the credit must  
4 be equal to a pro-rata portion of the monthly recurring  
5 charges for all local services disrupted. If the service  
6 disruption is for more than 48 hours, but not more than 72  
7 hours, the credit must be equal to at least 33% of one  
8 month's recurring charges for all local services  
9 disrupted. If the service disruption is for more than 72  
10 hours, but not more than 96 hours, the credit must be equal  
11 to at least 67% of one month's recurring charges for all  
12 local services disrupted. If the service disruption is for  
13 more than 96 hours, but not more than 120 hours, the credit  
14 must be equal to one month's recurring charges for all  
15 local services disrupted. For each day or portion thereof  
16 that the service disruption continues beyond the initial  
17 120-hour period, the carrier shall also provide either  
18 alternative telephone service or an additional credit of  
19 \$20 per day, at the customers option.

20 (2) If a carrier fails to install basic local exchange  
21 service as required under subdivision (d)(1), the carrier  
22 shall waive 50% of any installation charges, or in the  
23 absence of an installation charge or where installation is  
24 pursuant to the Link Up program, the carrier shall provide  
25 a credit of \$25. If a carrier fails to install service  
26 within 10 business days after the service application is  
27 placed, or fails to install service within 5 business days  
28 after the customer's requested installation date, if the  
29 requested date was more than 5 business days after the date  
30 of the order, the carrier shall waive 100% of the  
31 installation charge, or in the absence of an installation  
32 charge or where installation is provided pursuant to the  
33 Link Up program, the carrier shall provide a credit of \$50.  
34 For each day that the failure to install service continues



1 beyond the initial 10 business days, or beyond 5 business  
2 days after the customer's requested installation date, if  
3 the requested date was more than 5 business days after the  
4 date of the order, the carrier shall also provide either  
5 alternative telephone service or an additional credit of  
6 \$20 per day, at the customer's option until service is  
7 installed.

8 (3) If a carrier fails to keep a scheduled repair or  
9 installation appointment when a customer premises visit  
10 requires a customer to be present, the carrier shall credit  
11 the customer \$50 per missed appointment. A credit required  
12 by this subsection does not apply when the carrier provides  
13 the customer with 24-hour notice of its inability to keep  
14 the appointment.

15 (4) If the violation of a basic local exchange service  
16 quality standard is caused by a carrier other than the  
17 carrier providing retail service to the customer, the  
18 carrier providing retail service to the customer shall  
19 credit the customer as provided in this Section. The  
20 carrier causing the violation shall reimburse the carrier  
21 providing retail service the amount credited the customer.  
22 When applicable, an interconnection agreement shall govern  
23 compensation between the carrier causing the violation, in  
24 whole or in part, and the retail carrier providing the  
25 credit to the customer.

26 (5) When alternative telephone service is appropriate,  
27 the customer may select one of the alternative telephone  
28 services offered by the carrier. The alternative telephone  
29 service shall be provided at no cost to the customer for  
30 the provision of local service.

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

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

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

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

5 (iv) is extended by the carrier's inability to gain  
6 access to the customer's premises due to the customer  
7 missing an appointment, provided that the violation is  
8 not further extended by the carrier;

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

12 (vi) occurs as a result of a carrier's right to  
13 refuse service to a customer as provided in Commission  
14 rules; or

15 (vii) occurs as a result of a lack of facilities  
16 where a customer requests service at a geographically  
17 remote location, a customer requests service in a  
18 geographic area where the carrier is not currently  
19 offering service, or there are insufficient facilities  
20 to meet the customer's request for service, subject to  
21 a carrier's obligation for reasonable facilities  
22 planning.

23 (7) The provisions of this subsection are cumulative  
24 and shall not in any way diminish or replace other civil or  
25 administrative remedies available to a customer or a class  
26 of customers.

27 (e-5) If a telecommunications carrier that is subject to an  
28 alternative form of regulation plan on the effective date of  
29 this amendatory Act of the 94th General Assembly fails to  
30 comply with the requirements set forth in paragraphs (1), (2),  
31 and (3) of subsection (e) regarding basic local exchange  
32 service provided to residential end users, the credits to be  
33 paid or charges to be waived shall be calculated as set forth  
34 in subsection (e), except that any such credits or charges to

1 be waived shall be 10% higher than those set forth in those  
2 paragraphs. This subsection shall take effect 6 months after  
3 the effective date of this amendatory Act of the 94th General  
4 Assembly.

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

12 (1) Such prior alternative regulation  
13 telecommunications carrier shall continue to be subject to  
14 the retail service quality measures, exclusions,  
15 calculations and standards set forth in the Commission's  
16 orders in the proceeding in which such plan was adopted,  
17 but such telecommunications carrier shall not be subject to  
18 any retail service quality-related rate reductions or  
19 penalties that may have applied under such plan or the  
20 Commission's orders;

21 (2) To the extent the measures adopted under such an  
22 alternative form of regulation plan are also contained in  
23 the rules promulgated by the Commission pursuant to this  
24 Section, the retail service quality measures, exclusions,  
25 calculations and standards adopted pursuant to the  
26 Commission's order in the proceeding in which such prior  
27 alternative regulation plan was adopted shall apply rather  
28 than such rules, except to the extent the service quality  
29 standard provided in the rules is more stringent;

30 (3) Such telecommunications carrier shall also be  
31 subject to any measures that are contained in the rules  
32 promulgated by the Commission pursuant to this Section that  
33 are not measures that are included in such  
34 telecommunications carrier's alternative form of

1       regulation plan;

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

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

9       (f) The rules shall require each telecommunications  
10      carrier to provide to the Commission, on a quarterly basis and  
11      in a form suitable for posting on the Commission's website, a  
12      public report that includes performance data for basic local  
13      exchange service quality of service. The performance data shall  
14      be disaggregated for each geographic area and each customer  
15      class of the State for which the telecommunications carrier  
16      internally monitored performance data as of a date 120 days  
17      preceding the effective date of this amendatory Act of the 92nd  
18      General Assembly. The report shall include, at a minimum,  
19      performance data on basic local exchange service  
20      installations, lines out of service for more than 24 hours,  
21      carrier response to customer calls, trouble reports, and missed  
22      repair and installation commitments.

23      (g) The Commission shall establish and implement carrier to  
24      carrier wholesale service quality rules and establish remedies  
25      to ensure enforcement of the rules. These rules shall become  
26      effective within one year after the effective date of this  
27      amendatory Act of the 94th General Assembly. The wholesale  
28      service quality rules and standards shall be reasonable and any  
29      remedies shall be proportionate to the actual damages, if any,  
30      to the other telecommunications carrier. Any  
31      carrier-to-carrier rules developed by the Commission pursuant  
32      to this subsection shall: (1) not exceed the duties imposed on  
33      telecommunications carriers pursuant to Section 251 of the  
34      federal Telecommunications Act of 1996 and regulations

1 promulgated thereunder or any amendments and successors  
2 thereof; (2) only relate to basic local exchange service to end  
3 users and shall specify the terms and conditions regarding the  
4 transfer of customer information, telephone numbers, and  
5 required unbundled network elements when a basic local exchange  
6 end user customer transfers from one telecommunications  
7 carrier to another telecommunications carrier; (3) apply  
8 equally to any telecommunications carrier providing basic  
9 local exchange service; (4) include no more than 12 performance  
10 measures; and (5) be the only wholesale service quality rules  
11 that apply at the expiration of any wholesale performance plan  
12 previously adopted by the Commission for any  
13 telecommunications carrier prior to the amendment of this  
14 subsection or on July 1, 2007, whichever date is earlier. At a  
15 minimum, the rules shall include measures for unbundled loop  
16 return, return of customer service records, loss  
17 notifications, and number portability with remedies. Any  
18 telecommunications carrier that is not subject to a  
19 Commission-approved remedy plan as of the effective date of  
20 this amendatory Act of the 94th General Assembly shall have 6  
21 months after the effective date of the rules promulgated  
22 pursuant to this subsection under this amendatory Act of the  
23 94th General Assembly to comply with the requirements of this  
24 subsection, to the extent that the rules promulgated pursuant  
25 to this amendatory Act contain measures to which such carrier  
26 was not subject as of the effective date of this amendatory  
27 Act. Nothing in this Section is intended to limit the ability  
28 of a telecommunications carrier to seek inclusion of  
29 performance measures and remedies in the context of arbitration  
30 before the Commission pursuant to Section 252 of the federal  
31 Telecommunications Act of 1996. This subsection shall not apply  
32 to certain rural telephone companies subject to 47 U.S.C.  
33 251(f).

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

1 (220 ILCS 5/13-801) (from Ch. 111 2/3, par. 13-801)

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

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

4 (a) This Section provides ~~additional~~ State requirements  
5 for incumbent local exchange carriers that the General Assembly  
6 believes are consistent with and not preempted by ~~contemplated~~  
7 ~~by, but not inconsistent with, Section 261(c) of the federal~~  
8 Telecommunications Act of 1996, and regulations promulgated  
9 thereunder or any amendments or successors thereof. ~~not~~  
10 ~~preempted by orders of the Federal Communications Commission. A~~  
11 ~~telecommunications carrier not subject to regulation under an~~  
12 ~~alternative regulation plan pursuant to Section 13-506.1 of~~  
13 ~~this Act shall not be subject to the provisions of this~~  
14 ~~Section, to the extent that this Section imposes requirements~~  
15 ~~or obligations upon the telecommunications carrier that exceed~~  
16 ~~or are more stringent than those obligations imposed by Section~~  
17 ~~251 of the federal Telecommunications Act of 1996 and~~  
18 ~~regulations promulgated thereunder.~~

19 Nothing in this Article or this Section shall be construed  
20 to require any incumbent local exchange carrier to provide any  
21 other telecommunications carrier with interconnection,  
22 collocation, access to any network element, whether unbundled  
23 or combined with other network elements, or resale where the  
24 Federal Communications Commission does not require such  
25 interconnection, collocation, access to any network element,  
26 or resale to be provided pursuant to Section 251 of the federal  
27 Telecommunications Act of 1996 or any amendment or successor  
28 thereof.

29 An incumbent local exchange carrier shall provide a  
30 requesting telecommunications carrier with interconnection,  
31 collocation, network elements, and access to operations  
32 support systems on just, reasonable, and nondiscriminatory  
33 rates, terms, and conditions to enable the provision of any and

1 all existing and new telecommunications services within the  
2 LATA, including, but not limited to, local exchange and  
3 exchange access. ~~The Commission shall require the incumbent~~  
4 ~~local exchange carrier to provide interconnection,~~  
5 ~~collocation, and network elements in any manner technically~~  
6 ~~feasible to the fullest extent possible to implement the~~  
7 ~~maximum development of competitive telecommunications services~~  
8 ~~offerings. As used in this Section, to the extent that~~  
9 ~~interconnection, collocation, or network elements have been~~  
10 ~~deployed for or by the incumbent local exchange carrier or one~~  
11 ~~of its wireline local exchange affiliates in any jurisdiction,~~  
12 ~~it shall be presumed that such is technically feasible in~~  
13 ~~Illinois.~~

14 (b) Interconnection. ~~(1)~~ An incumbent local exchange  
15 carrier shall provide for the facilities and equipment of any  
16 requesting telecommunications carrier's interconnection with  
17 the incumbent local exchange carrier's network on just,  
18 reasonable, and nondiscriminatory rates, terms, and  
19 conditions:

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

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

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

32 ~~(2) An incumbent local exchange carrier shall make~~  
33 ~~available to any requesting telecommunications carrier, to~~  
34 ~~the extent technically feasible, those services,~~

~~facilities, or interconnection agreements or arrangements that the incumbent local exchange carrier or any of its incumbent local exchange subsidiaries or affiliates offers in another state under the terms and conditions, but not the stated rates, negotiated pursuant to Section 252 of the federal Telecommunications Act of 1996. Rates shall be established in accordance with the requirements of subsection (g) of this Section. An incumbent local exchange carrier shall also make available to any requesting telecommunications carrier, to the extent technically feasible, and subject to the unbundling provisions of Section 251(d)(2) of the federal Telecommunications Act of 1996, those unbundled network element or interconnection agreements or arrangements that a local exchange carrier affiliate of the incumbent local exchange carrier obtains in another state from the incumbent local exchange carrier in that state, under the terms and conditions, but not the stated rates, obtained through negotiation, or through an arbitration initiated by the affiliate, pursuant to Section 252 of the federal Telecommunications Act of 1996. Rates shall be established in accordance with the requirements of subsection (g) of this Section.~~

(c) Collocation. An incumbent local exchange carrier shall provide for physical or virtual collocation of any type of equipment necessary for interconnection or access to network elements at the premises of the incumbent local exchange carrier on just, reasonable, and nondiscriminatory rates, terms, and conditions. The equipment shall include, but is not limited to, optical transmission equipment, multiplexers, remote switching modules, and cross-connects between the facilities or equipment of other collocated carriers. The equipment shall also include microwave transmission facilities on the exterior and interior of the incumbent local exchange carrier's premises used for interconnection to, or for access



1 to network elements of, the incumbent local exchange carrier or  
2 a collocated carrier, unless the incumbent local exchange  
3 carrier demonstrates to the Commission that it is not practical  
4 due to technical reasons or space limitations. An incumbent  
5 local exchange carrier shall allow, and provide for, the most  
6 reasonably direct and efficient cross-connects, that are  
7 consistent with safety and network reliability standards,  
8 between the facilities of collocated carriers. An incumbent  
9 local exchange carrier shall also allow, and provide for, cross  
10 connects between a noncollocated telecommunications carrier's  
11 network elements platform, or a noncollocated  
12 telecommunications carrier's transport facilities, and the  
13 facilities of any collocated carrier, consistent with safety  
14 and network reliability standards.

15 (d) Network elements. The incumbent local exchange carrier  
16 shall provide to any requesting telecommunications carrier,  
17 for the provision of an existing or a new telecommunications  
18 service, nondiscriminatory access to network elements that are  
19 required by the Federal Communications Commission to be made  
20 available on an unbundled basis pursuant to Section 251(c)(3)  
21 and 251(d)(2) of the federal Telecommunications Act of 1996 and  
22 regulations promulgated thereunder or any amendments or  
23 successors thereof, on an ~~any~~ unbundled ~~or bundled~~ basis, to  
24 the extent that such network elements are required by the  
25 Federal Communications Commission to be provided on an  
26 unbundled basis pursuant to Section 251(c)(3) and 251(d)(2) of  
27 that Act and regulations promulgated thereunder or any  
28 amendments or successors thereof, as requested, at any  
29 technically feasible point on just, reasonable, and  
30 nondiscriminatory rates, terms, and conditions.

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

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

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

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

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

18           (5) The Commission may ~~shall~~ establish maximum time  
19 periods for the incumbent local exchange carrier's  
20 provision of unbundled network elements, subject to the  
21 provisions of subsection (g) of Section 13-712 to the  
22 extent applicable. The maximum time period shall be no  
23 longer than the time period for the incumbent local  
24 exchange carrier's provision of comparable retail  
25 telecommunications services utilizing those network  
26 elements. The Commission may establish a maximum time  
27 period for a particular network element that is shorter  
28 than for a comparable retail telecommunications service  
29 offered by the incumbent local exchange carrier if a  
30 requesting telecommunications carrier establishes that it  
31 shall perform other functions or activities after receipt  
32 of the particular network element to provide  
33 telecommunications services to end users. The burden of  
34 proof for establishing a maximum time period for a

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

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

30 ~~(6) When a telecommunications carrier requests a~~  
31 ~~network elements platform referred to in subdivision~~  
32 ~~(d)(4) of this Section, without the need for field work~~  
33 ~~outside of the central office, for an end user that has~~  
34 ~~existing local exchange telecommunications service~~

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

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

30 (6) (c) Operations support systems. Subject to the  
31 provisions of subsection (g) of Section 13-712 to the  
32 extent applicable, the The Commission may shall establish  
33 minimum standards with just, reasonable, and  
34 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,

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

10 (g) ~~(h)~~ Rural exemption. This Section does not apply to  
11 certain rural telephone companies as described in 47 U.S.C.  
12 251(f).

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

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

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

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

1 (220 ILCS 5/13-804 new)

2 Sec. 13-804. Access services.

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

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

33 (c) Subsections (a) and (b) shall not apply to incumbent



1 local exchange carriers serving 35,000 or fewer access lines  
2 whose intrastate switched access rates are based upon the  
3 methodologies approved in the Second Interim Order of the  
4 Commission in Docket No. 01-0808, unless the Commission  
5 determines to investigate and changes the methodologies  
6 approved in that Second Interim Order.

7 (d) For purposes of this Section, the rate for intrastate  
8 switched access services means the composite, per-minute rate  
9 for these services, including all applicable fixed and  
10 traffic-sensitive charges.

11 (e) Nothing in subsection (a) of this Section prohibits a  
12 telecommunications carrier from electing to offer intrastate  
13 switched access service or intrastate dedicated special access  
14 at rates lower than its interstate rates.

15 (f) Notwithstanding anything to the contrary in this  
16 Section or Article, the Commission retains the authority to  
17 review, upon complaint by a telecommunications carrier, the  
18 provision of intrastate dedicated special access by another  
19 telecommunications carrier to determine whether or not it is  
20 being provided in an unreasonably discriminatory manner.

21 (220 ILCS 5/13-1200)

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

23 Sec. 13-1200. Repealer. This Article is repealed July 1,  
24 2008 2005.

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

26 (220 ILCS 5/13-402.1 rep.)

27 (220 ILCS 5/13-408 rep.)

28 (220 ILCS 5/13-409 rep.)

29 (220 ILCS 5/13-502.5 rep.)

30 (220 ILCS 5/13-503 rep.)

31 (220 ILCS 5/13-505.3 rep.)

32 (220 ILCS 5/13-505.4 rep.)

1 (220 ILCS 5/13-505.5 rep.)

2 (220 ILCS 5/13-505.6 rep.)

3 (220 ILCS 5/13-505.7 rep.)

4 (220 ILCS 5/13-508 rep.)

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

6 (220 ILCS 5/13-518 rep.)

7 (220 ILCS 5/13-802 rep.)

8 Section 10. The Public Utilities Act is amended by  
9 repealing Sections 13-402.1, 13-408, 13-409, 13-502.5, 13-503,  
10 13-505.3, 13-505.4, 13-505.5, 13-505.6, 13-505.7, 13-508,  
11 13-508.1, 13-518, and 13-802.

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