

1 AN ACT in relation to the administration and funding of
2 the Illinois Commerce Commission.

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

5 Section 5. The State Finance Act is amended by adding
6 Section 5.545 as follows:

7 (30 ILCS 105/5.545 new)

8 Sec. 5.545. The Public Utility Investigation Expense
9 Reimbursement Fund.

10 Section 10. The Public Utilities Act is amended by
11 changing Section 2-202 and by adding Sections 2-203 and 2-301
12 as follows:

13 (220 ILCS 5/2-202) (from Ch. 111 2/3, par. 2-202)

14 Sec. 2-202. Policy; Public Utility Fund; tax.

15 (a) It is declared to be the public policy of this State
16 that in order to maintain and foster the effective regulation
17 of public utilities under this Act in the interests of the
18 People of the State of Illinois and the public utilities as
19 well, the public utilities subject to regulation under this
20 Act and which enjoy the privilege of operating as public
21 utilities in this State, shall bear the expense of
22 administering this Act by means of a tax on such privilege
23 measured by the annual gross revenue of such public utilities
24 in the manner provided in this Section. For purposes of this
25 Section, "expense of administering this Act" includes any
26 costs incident to studies, whether made by the Commission or
27 under contract entered into by the Commission, concerning
28 environmental pollution problems caused or contributed to by
29 public utilities and the means for eliminating or abating

1 those problems. Such proceeds shall be deposited in the
2 Public Utility Fund in the State treasury.

3 (b) All of the ordinary and contingent expenses of the
4 Commission incident to the administration of this Act shall
5 be paid out of the Public Utility Fund except the
6 compensation of the members of the Commission which shall be
7 paid from the General Revenue Fund. Notwithstanding other
8 provisions of this Act to the contrary, the ordinary and
9 contingent expenses of the Commission incident to the
10 administration of the Illinois Commercial Transportation Law
11 may be paid from appropriations from the Public Utility Fund
12 through the end of fiscal year 1986.

13 (c) A tax is imposed upon each public utility subject to
14 the provisions of this Act equal to .08% of its gross revenue
15 for each calendar year commencing with the calendar year
16 beginning January 1, 1982, except that the Commission may, by
17 rule, establish a different rate no greater than 0.1%. For
18 purposes of this Section, "gross revenue" shall not include
19 revenue from the production, transmission, distribution,
20 sale, delivery, or furnishing of electricity. "Gross revenue"
21 shall not include amounts paid by telecommunications
22 retailers under the Telecommunications Municipal
23 Infrastructure Maintenance Fee Act.

24 (d) Annual gross revenue returns shall be filed in
25 accordance with paragraph (1) or (2) of this subsection (d).

26 (1) Except as provided in paragraph (2) of this
27 subsection (d), on or before January 10 of each year each
28 public utility subject to the provisions of this Act
29 shall file with the Commission an estimated annual gross
30 revenue return containing an estimate of the amount of
31 its gross revenue for the calendar year commencing
32 January 1 of said year and a statement of the amount of
33 tax due for said calendar year on the basis of that
34 estimate. Public utilities may also file revised returns

1 containing updated estimates and updated amounts of tax
2 due during the calendar year. These revised returns, if
3 filed, shall form the basis for quarterly payments due
4 during the remainder of the calendar year. In addition,
5 on or before March 31 ~~February-15~~ of each year, each
6 public utility shall file an amended return showing the
7 actual amount of gross revenues shown by the company's
8 books and records as of December 31 of the previous year.
9 Forms and instructions for such estimated, revised, and
10 amended returns shall be devised and supplied by the
11 Commission.

12 (2) Beginning with returns due after January 1,
13 2002 ~~1993~~, the requirements of paragraph (1) of this
14 subsection (d) shall not apply to any public utility in
15 any calendar year for which the total tax the public
16 utility owes under this Section is less than \$10,000
17 ~~\$17,000~~. For such public utilities with respect to such
18 years, the public utility shall file with the Commission,
19 on or before March ~~January~~ 31 of the following year, an
20 annual gross revenue return for the year and a statement
21 of the amount of tax due for that year on the basis of
22 such a return. Forms and instructions for such returns
23 and corrected returns shall be devised and supplied by
24 the Commission.

25 (e) All returns submitted to the Commission by a public
26 utility as provided in this subsection (e) or subsection (d)
27 of this Section shall contain or be verified by a written
28 declaration by an appropriate officer of the public utility
29 that the return is made under the penalties of perjury. The
30 Commission may audit each such return submitted and may,
31 under the provisions of Section 5-101 of this Act, take such
32 measures as are necessary to ascertain the correctness of the
33 returns submitted. The Commission has the power to direct the
34 filing of a corrected return by any utility which has filed

1 an incorrect return and to direct the filing of a return by
2 any utility which has failed to submit a return. A
3 taxpayer's signing a fraudulent return under this Section is
4 perjury, as defined in Section 32-2 of the Criminal Code of
5 1961.

6 (f) (1) For all public utilities subject to paragraph
7 (1) of subsection (d), at least one quarter of the annual
8 amount of tax due under subsection (c) shall be paid to the
9 Commission on or before the tenth day of January, April,
10 July, and October of the calendar year subject to tax. In
11 the event that an adjustment in the amount of tax due should
12 be necessary as a result of the filing of an amended or
13 corrected return under subsection (d) or subsection (e) of
14 this Section, the amount of any deficiency shall be paid by
15 the public utility together with the amended or corrected
16 return and the amount of any excess shall, after the filing
17 of a claim for credit by the public utility, be returned to
18 the public utility in the form of a credit memorandum in the
19 amount of such excess or be refunded to the public utility in
20 accordance with the provisions of subsection (k) of this
21 Section. However, if such deficiency or excess is less than
22 \$1, then the public utility need not pay the deficiency and
23 may not claim a credit.

24 (2) Any public utility subject to paragraph (2) of
25 subsection (d) shall pay the amount of tax due under
26 subsection (c) on or before March January 31 next following
27 the end of the calendar year subject to tax. In the event
28 that an adjustment in the amount of tax due should be
29 necessary as a result of the filing of a corrected return
30 under subsection (e), the amount of any deficiency shall be
31 paid by the public utility at the time the corrected return
32 is filed. Any excess tax payment by the public utility shall
33 be returned to it after the filing of a claim for credit, in
34 the form of a credit memorandum in the amount of the excess.

1 However, if such deficiency or excess is less than \$1, the
2 public utility need not pay the deficiency and may not claim
3 a credit.

4 (g) Each installment or required payment of the tax
5 imposed by subsection (c) becomes delinquent at midnight of
6 the date that it is due. Failure to make a payment as
7 required by this Section shall result in the imposition of a
8 late payment penalty, an underestimation penalty, or both, as
9 provided by this subsection. The late payment penalty shall
10 be the greater of:

11 (1) \$25 for each month or portion of a month that
12 the installment or required payment is unpaid or

13 (2) an amount equal to the difference between what
14 should have been paid on the due date, based upon the
15 most recently filed estimated, annual, or amended return
16 estimate, and what was actually paid, times 1%, for each
17 month or portion of a month that the installment or
18 required payment goes unpaid. This penalty may be
19 assessed as soon as the installment or required payment
20 becomes delinquent.

21 The underestimation penalty shall apply to those public
22 utilities subject to paragraph (1) of subsection (d) and
23 shall be calculated after the filing of the amended return.
24 It shall be imposed if the amount actually paid on any of the
25 dates specified in subsection (f) is not equal to at least
26 one-fourth of the amount actually due for the year, and shall
27 equal the greater of:

28 (1) \$25 for each month or portion of a month that
29 the amount due is unpaid or

30 (2) an amount equal to the difference between what
31 should have been paid, based on the amended return, and
32 what was actually paid as of the date specified in
33 subsection (f), times a percentage equal to 1/12 of the
34 sum of 10% and the percentage most recently established

1 by the Commission for interest to be paid on customer
2 deposits under 83 Ill. Adm. Code 280.70(e)(1), for each
3 month or portion of a month that the amount due goes
4 unpaid, except that no underestimation penalty shall be
5 assessed if the amount actually paid on or before each of
6 the dates specified in subsection (f) was based on an
7 estimate of gross revenues at least equal to the actual
8 gross revenues for the previous year. The Commission may
9 enforce the collection of any delinquent installment or
10 payment, or portion thereof by legal action or in any
11 other manner by which the collection of debts due the
12 State of Illinois may be enforced under the laws of this
13 State. The executive director or his designee may excuse
14 the payment of an assessed penalty or a portion of an
15 assessed penalty if he determines that enforced
16 collection of the penalty as assessed would be unjust.

17 (h) All sums collected by the Commission under the
18 provisions of this Section shall be paid promptly after the
19 receipt of the same, accompanied by a detailed statement
20 thereof, into the Public Utility Fund in the State treasury.

21 (i) During the month of October of each odd-numbered
22 year the Commission shall:

23 (1) determine the amount of all moneys deposited in
24 the Public Utility Fund during the preceding fiscal
25 biennium plus the balance, if any, in that fund at the
26 beginning of that biennium;

27 (2) determine the sum total of the following items:
28 (A) all moneys expended or obligated against
29 appropriations made from the Public Utility Fund during
30 the preceding fiscal biennium, plus (B) the sum of the
31 credit memoranda then outstanding against the Public
32 Utility Fund, if any; and

33 (3) determine the amount, if any, by which the sum
34 determined as provided in item (1) exceeds the amount

1 determined as provided in item (2).

2 If the amount determined as provided in item (3) of this
3 subsection exceeds \$5,000,000 ~~\$2,500,000~~, the Commission
4 shall then compute the proportionate amount, if any, which
5 (x) the tax paid hereunder by each utility during the
6 preceding biennium, and (y) the amount paid into the Public
7 Utility Fund during the preceding biennium by the Department
8 of Revenue pursuant to Sections 2-9 and 2-11 of the
9 Electricity Excise Tax Law, bears to the difference between
10 the amount determined as provided in item (3) of this
11 subsection (i) and \$5,000,000 ~~\$2,500,000~~. The Commission
12 shall cause the proportionate amount determined with respect
13 to payments made under the Electricity Excise Tax Law to be
14 transferred into the General Revenue Fund in the State
15 Treasury, and notify each public utility that it may file
16 during the 3 month period after the date of notification a
17 claim for credit for the proportionate amount determined with
18 respect to payments made hereunder by the public utility. If
19 the proportionate amount is less than \$10, no notification
20 will be sent by the Commission, and no right to a claim
21 exists as to that amount. Upon the filing of a claim for
22 credit within the period provided, the Commission shall issue
23 a credit memorandum in such amount to such public utility.
24 Any claim for credit filed after the period provided for in
25 this Section is void.

26 (j) Credit memoranda issued pursuant to subsection (f)
27 and credit memoranda issued after notification and filing
28 pursuant to subsection (i) may be applied for the 2 year
29 period from the date of issuance, against the payment of any
30 amount due during that period under the tax imposed by
31 subsection (c), or, subject to reasonable rule of the
32 Commission including requirement of notification, may be
33 assigned to any other public utility subject to regulation
34 under this Act. Any application of credit memoranda after the

1 period provided for in this Section is void.

2 (k) The chairman or executive director may make refund
3 of fees, taxes or other charges whenever he shall determine
4 that the person or public utility will not be liable for
5 payment of such fees, taxes or charges during the next 24
6 months and he determines that the issuance of a credit
7 memorandum would be unjust.

8 (Source: P.A. 90-561, eff. 8-1-98; 90-562, 12-16-97; 90-655,
9 eff. 7-30-98.)

10 (220 ILCS 5/2-203 new)

11 Sec. 2-203. Expense reimbursement.

12 (a) Whenever the Commission exercises its authority
13 under Section 7-204, Section 8-102, Section 9-213, or any
14 other provision of this Act, except for Section 13-515, to
15 require an entity subject in whole or in part to the
16 regulatory authority of the Commission to bear the cost of an
17 audit, investigation, study, or similar undertaking to be
18 conducted by persons independent of the entity and whenever
19 the Commission enters into a formal or informal agreement or
20 understanding with an entity subject in whole or in part to
21 the regulatory authority of the Commission for the conduct of
22 an audit, investigation, study, or similar undertaking to be
23 conducted by persons independent of the entity, the
24 Commission may require or agree to the payment to the
25 Commission by the regulated entity of the actual expenses
26 incurred by Commission personnel in performing any function
27 related to the audit, investigation, study, or similar
28 undertaking including, without limitation, monitoring the
29 activities of the persons conducting the audit,
30 investigation, study, or similar undertaking and monitoring
31 the activities of the regulated entity related to the audit,
32 investigation, study, or similar undertaking. The actual
33 expenses of Commission personnel shall be in addition to the

1 fees and expenses to be paid to the persons independent of
 2 the regulated entity who conduct the audit, investigation,
 3 study, or similar undertaking, but shall not exceed an amount
 4 equal to 10% of the fees and expenses of those persons.

5 (b) There is created in the State Treasury a special
 6 fund to be known as the Public Utility Investigation Expense
 7 Reimbursement Fund. All amounts paid to the Commission under
 8 this Section shall be deposited into that Fund. Amounts
 9 deposited into the Fund shall be considered always
 10 appropriated for the purposes of reimbursing expenses
 11 incurred by Commission personnel in performing any function
 12 related to the audit, investigation, study, or similar
 13 undertaking, including without limitation monitoring the
 14 activities of the persons conducting the audit,
 15 investigation, study, or similar undertaking, and monitoring
 16 the activities of the regulated entity related to the audit,
 17 investigation, study, or similar undertaking.

18 (220 ILCS 5/2-301 new)

19 Sec. 2-301. Filing fees.

20 (a) In addition to any other fees and taxes imposed
 21 pursuant to this Act, the Commission is authorized to
 22 establish by rule filing fees for the following filings,
 23 irrespective of whether those filings are made by electronic
 24 means or otherwise:

25 (1) the filing of any rate;

26 (2) the filing of contracts with customers when the
 27 filing is required or permitted by this Act or by a rate
 28 on file pursuant to this Act;

29 (3) the filing with a public utility's rates of any
 30 municipal ordinance, as required by this Act or by rule
 31 of the Commission;

32 (4) the filing of any petition or application for
 33 special permission for the filing of such tariffs,

1 contracts, or ordinances;

2 (5) the filing of any annual report required by
3 this Act or by rule of the Commission;

4 (6) the filing of any annual certification required
5 by this Act or by rule of the Commission; and

6 (7) the filing of any application, petition,
7 complaint, negotiated agreement, arbitrated agreement, or
8 any other pleading, document, or writing that initiates a
9 contested case, licensing proceeding, rulemaking, rate
10 proceeding, declaratory ruling proceeding, or other
11 formal Commission proceeding, except a proceeding
12 initiated by the Commission itself.

13 The Commission may provide by rule for reasonable waivers
14 of, or reductions in, these fees.

15 (b) All fees collected by the Commission under this
16 Section shall be deposited in the Public Utility Fund in the
17 State treasury. The Commission shall account separately for
18 all moneys received under this Section, and shall expend
19 those moneys only for the purposes of creating and
20 maintaining one or more electronic systems for the filing,
21 maintenance, storage, and retrieval of documents and
22 information, including without limitation rates, contracts,
23 ordinances, reports, certifications, petitions, applications,
24 complaints, negotiated agreements, arbitrated agreements,
25 pleadings, writings, and all evidence and documents that are
26 part of the Commission's record in formal proceedings. Moneys
27 received by the Commission under this Section shall not at
28 any time be appropriated or diverted to any other use or
29 purpose.

30 (c) Upon failure to pay an applicable filing fee for any
31 document under this Section, the Commission shall neither
32 allow the filing nor entertain a proceeding concerning the
33 document. No prescribed time limit imposed on the Commission
34 or its proceedings begins to run until the applicable filing

1 fee is paid. In addition, and without limiting any power of
2 the Commission under any other Section of this Act to revoke,
3 rescind, or reconsider any certificate issued under this Act,
4 failure to pay any filing fee for an annual report or annual
5 certification required by this Act or by Commission rule
6 shall be grounds for the revocation or suspension of the
7 non-paying entity's certificate of public convenience and
8 necessity, certificate of service authority, certificate
9 authorizing operations as a common carrier by pipeline, or
10 other franchise, license, permit, or right to own, operate,
11 manage, or control any public utility, telecommunications
12 carrier, common carrier by pipeline, or alternative retail
13 electric supplier.

14 Section 10. The Illinois Vehicle Code is amended by
15 changing Section 18c-1503 and adding Section 18c-1502.15 as
16 follows:

17 (625 ILCS 5/18c-1502.15 new)

18 Sec 18c-1502.15. Filing Fees.

19 (a) In addition to any other fees and taxes imposed
20 pursuant to this Law, the Commission is authorized to
21 establish by rule filing fees for the following filings,
22 irrespective of whether those filings are made by electronic
23 means or otherwise:

24 (1) the filing of any rate;

25 (2) the filing of contracts;

26 (3) the filing of any petition or application for
27 special permission for the filing of such tariffs or
28 contracts;

29 (4) the filing of any annual report required by
30 this Act or by rule of the Commission;

31 (5) the filing of any annual certification required
32 by this Act or by rule of the Commission; and

1 (6) the filing of any application, petition,
2 complaint, or any other pleading, document, or writing
3 that initiates a contested case, licensing proceeding,
4 rulemaking, rate proceeding, declaratory ruling
5 proceeding, or other formal Commission proceeding
6 pursuant to this Law, except a proceeding initiated by
7 the Commission itself.

8 The Commission may provide by rule for reasonable waivers
9 of, or reductions in, these fees.

10 (b) All fees collected by the Commission under this
11 Section shall be deposited in the Transportation Regulatory
12 Fund in the State treasury. The Commission shall account
13 separately for all moneys received under this Section, and
14 shall expend those moneys only for the purposes of creating
15 and maintaining one or more electronic systems for the
16 filing, maintenance, storage, and retrieval of documents and
17 information including, without limitation, rates, contracts,
18 reports, certifications, petitions, applications, complaints,
19 pleadings, writings, and all evidence and documents that are
20 part of the Commission's record in formal proceedings. Moneys
21 received by the Commission under this Section shall not at
22 any time be appropriated or diverted to any other use or
23 purpose.

24 (c) Upon failure to pay an applicable filing fee for any
25 document under this Section, the Commission shall neither
26 allow the filing nor entertain a proceeding concerning the
27 document. No prescribed time limit imposed on the Commission
28 or its proceedings begins to run until the applicable filing
29 fee is paid. In addition, and without limiting any power of
30 the Commission under any other Section of this Law to revoke,
31 rescind, or reconsider any license or authorization, failure
32 to pay any filing fee for an annual report or annual
33 certification required by this Law or by Commission rule
34 shall be grounds for the revocation or suspension of the

1 non-paying entity's license or other authorization issued or
2 held pursuant to this Law.

3 (625 ILCS 5/18c-1503) (from Ch. 95 1/2, par. 18c-1503)
4 Sec. 18c-1503. Legislative Intent. It is the intent of
5 the Legislature that the exercise of powers under Sections
6 18c-1501 and 18c-1502 of this Chapter shall not diminish
7 revenues to the Commission, and that any surplus or deficit
8 of revenues in the Transportation Regulatory Fund, together
9 with any projected changes in the cost of administering and
10 enforcing this Chapter, should be considered in establishing
11 or adjusting fees and taxes in succeeding years. The
12 ~~Commission shall administer fees and taxes under this Chapter~~
13 ~~in such a manner as to insure that any surplus--generated--or~~
14 ~~accumulated--in--the--Transportation-Regulatory-Fund-does-not~~
15 ~~exceed-the-surplus-accumulated--in--the--Motor--Vehicle--Fund~~
16 ~~during--fiscal--year-1984,-and-shall-adjust-the-level-of-such~~
17 ~~fees-and-taxes-to-insure-compliance-with-this-provision.~~
18 (Source: P.A. 84-796.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.