



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4568

Introduced 02/04/04, by Mike Boland

SYNOPSIS AS INTRODUCED:

- 220 ILCS 5/13-306 new
- 220 ILCS 5/13-520 new
- 220 ILCS 5/Art. XIIIIE heading new
- 220 ILCS 5/13E-101 new
- 220 ILCS 5/13E-105 new
- 220 ILCS 5/13E-110 new
- 220 ILCS 5/13E-115 new
- 220 ILCS 5/13E-205 new
- 220 ILCS 5/13E-210 new

Amends the Public Utilities Act. Requires an incumbent local exchange carrier to structurally separate its retail operations from its wholesale operations in accordance with the requirements of the Commerce Commission. Provides that an incumbent local exchange carrier is the telecommunications carrier that on the effective date of the federal Telecommunications Act of 1996 provided local exchange services to a majority of the access lines in Illinois. Regulates transactions between retail affiliates and wholesale affiliates. Requires the Commission to begin proceedings to implement structural separation by August 1, 2004 and to conclude the proceedings by February 1, 2005. Requires the Commission to report to the General Assembly by January 14, 2005 on the status of structural separation. Requires telecommunications carriers that provide both competitive and noncompetitive services to make detailed network infrastructure reports to the Commerce Commission each month. Requires the Commission to perform an annual network infrastructure audit on all carriers required to file network infrastructure reports. Provides for the Commission to report its findings regarding network infrastructure to the General Assembly by January 15 of each year. Provides that incumbent local exchange carriers may not declare any dividend or distribution if the carrier is in violation of a Commission order or is subject to a Commission finding of failure to meet structural separation obligations. Effective July 1, 2004.

LRB093 19129 AMC 44864 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning telecommunications.

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

4 Section 5. The Public Utilities Act is amended by adding
5 Sections 13-306 and 13-520 and Article XIIIIE as follows:

6 (220 ILCS 5/13-306 new)

7 Sec. 13-306. Infrastructure reports.

8 (a) A telecommunications carrier that provides both
9 competitive and noncompetitive services must file a network
10 infrastructure report with the Commission no later than the
11 15th day of each month. The report must contain detailed
12 information sufficient to enable the Commission to determine if
13 the carrier is engaged in redlining in the provision of
14 services, particularly focusing on the provision of advanced
15 telecommunications services. The report must contain
16 information, detailed by exchange, on investments, upgrades,
17 outages, services provided, and any other matter that the
18 Commission deems relevant.

19 (b) The Commission must perform an annual network
20 infrastructure audit of all telecommunications carriers
21 providing both competitive and noncompetitive services. The
22 Commission shall report its network infrastructure findings to
23 the General Assembly by January 15 of each year. The
24 Commission's annual network infrastructure report shall
25 include any findings of redlining and shall compare the
26 investments in and quality of the networks owned by carriers
27 providing both competitive and noncompetitive services in
28 Illinois to those in other States.

29 (220 ILCS 5/13-520 new)

30 Sec. 13-520. Dividend limitations. A telecommunications
31 carrier that is an incumbent local exchange carrier may not

1 declare any cash, stock, bond, or scrip dividend or
2 distribution or divide the proceeds of the sale of any stock,
3 bond, or scrip among its stockholders while the carrier is in
4 violation of a Commission order or while there exists against
5 the carrier a Commission finding of failure to meet structural
6 separation obligations under this Act, except upon Commission
7 approval after notice and hearing.

8 (220 ILCS 5/Art. XIIIIE heading new)

9 ARTICLE XIIIIE. STRUCTURAL SEPARATION

10 (220 ILCS 5/13E-101 new)

11 Sec. 13E-101. Definitions. In this Article the terms
12 defined in this Section have the meanings indicated.

13 "Competitive local exchange carrier" means a telephone
14 company authorized by the Commission to provide retail local
15 telecommunications services that was not an incumbent local
16 exchange carrier in this State on the effective date of the
17 federal Telecommunications Act of 1996.

18 "Incumbent local exchange carrier" means a telephone
19 company that provided local exchange telephone services to a
20 majority of the access lines in the State on the effective date
21 of the federal Telecommunications Act of 1996.

22 "Retail affiliate" means a telephone company created by the
23 structural separation of the incumbent local exchange carrier
24 required under Section 13E-110 of this Article to provide
25 retail local telecommunications services.

26 "Wholesale affiliate" means a telephone company created by
27 the structural separation of the incumbent local exchange
28 carrier required under Section 13E-110 of this Article to
29 provide wholesale telecommunications services to competitive
30 local exchange carriers and to the retail affiliate.

31 (220 ILCS 5/13E-105 new)

32 Sec. 13E-105. Findings. The General Assembly finds and
33 declares that:

1 (1) action is needed to develop and maintain vibrant
2 and irreversible competition in all intrastate
3 telecommunications markets throughout Illinois;

4 (2) development of fully competitive Illinois
5 telecommunications markets will ensure that consumers
6 receive the widest possible array of services at
7 competitively determined prices; and

8 (3) competition will promote and enhance economic
9 development opportunities in rural, urban, and suburban
10 areas of this State.

11 (220 ILCS 5/13E-110 new)

12 Sec. 13E-110. Structural separation of operations.

13 (a) In addition to any other requirements of law, an
14 incumbent local exchange carrier must structurally separate
15 its retail operations from its wholesale operations by creating
16 a retail affiliate and a wholesale affiliate, consistent with
17 proceedings of the Commission to implement this Article.

18 (b) The retail affiliate and the wholesale affiliate must
19 conduct their respective operations in accordance with this
20 Section.

21 (c) The retail affiliate must operate as a competitive
22 local exchange carrier.

23 (d) The wholesale affiliate must own and operate all
24 network facilities of the incumbent local exchange carrier as
25 it existed before the effective date of the structural
26 separation.

27 (e) The wholesale affiliate must operate completely
28 independently from the retail affiliate. The retail affiliate
29 may not jointly own with the wholesale affiliate, or otherwise
30 control, any network facilities or the land, buildings, poles,
31 conduits, or rights-of-way on or in which network facilities
32 are located.

33 (f) (1) All transactions and agreements between the
34 retail affiliate and the wholesale affiliate:

35 (A) must be at arm's length;

1 (B) must be reduced to writing and be available for
2 public inspection; and

3 (C) may not take effect until approved by the
4 Commission.

5 (2) The Commission may not approve a transaction
6 between the wholesale affiliate and the retail affiliate
7 until all interested parties have had an opportunity to be
8 heard and unless the Commission affirmatively finds that
9 the transaction:

10 (A) does not discriminate against competitive
11 local exchange carriers; and

12 (B) will not result in any cross-subsidization
13 between the wholesale affiliate and the retail
14 affiliate.

15 (g) The retail affiliate and wholesale affiliate must:

16 (1) maintain separate books, records, and accounts;
17 and

18 (2) have separate officers, directors, and employees.

19 (h) The wholesale affiliate may not discriminate in favor
20 of the retail affiliate, and the retail affiliate may not
21 discriminate in favor of the wholesale affiliate.

22 (i) The wholesale affiliate must make all products,
23 services, and service functions, including network elements,
24 facilities, interfaces, and systems, available to each
25 competitive local exchange carrier at the prices, terms, and
26 conditions at which they are available to the retail affiliate.
27 The wholesale affiliate may make all of those products,
28 services, and service functions available to an affiliated or
29 unaffiliated competitive local exchange carrier only through a
30 tariff or an interconnection agreement approved by the
31 Commission.

32 (220 ILCS 5/13E-115 new)

33 Sec. 13E-115. Procedure and enforcement under Article.

34 (a) The Commission may adopt:

35 (1) streamlined procedures for review of transactions

1 between the retail affiliate and the wholesale affiliate;

2 (2) enforcement measures for violations of this
3 Article, including auditing requirements; and

4 (3) any other requirement or procedure necessary or
5 appropriate for implementation of this Article.

6 (b) The Commission may enforce the requirements of this
7 Article under the provision of Article X.

8 (220 ILCS 5/13E-205 new)

9 Sec. 13E-205. Commencement of proceedings.

10 (a) On or before August 4, 2004, the Commission shall begin
11 proceedings to implement this Article. The Commission shall
12 conclude the proceedings on or before February 1, 2005.

13 (b) As part of its proceedings to implement this Article,
14 the Commission, after providing all interested parties a full
15 opportunity to submit proposals, offer comments, and
16 participate in hearings, shall by order or rule, establish a
17 code of conduct governing the relationship between the retail
18 affiliate and the wholesale affiliate to ensure that:

19 (1) the retail affiliate is not given any undue
20 preference or advantage in its relationship with the
21 wholesale affiliate; and

22 (2) all services provided by the wholesale affiliate to
23 the retail affiliate are provided in a nondiscriminatory
24 manner as required under this Article and other applicable
25 law.

26 (220 ILCS 5/13E-210 new)

27 Sec. 13E-210. Report to the General Assembly. On or before
28 January 14, 2005, the Commission shall report to the General
29 Assembly on the status of competition in local exchange
30 telephone service in this State and on the implementation of
31 this Article.

32 Section 99. Effective date. This Act takes effect July 1,
33 2004.