

1 AN ACT relating to telecommunications carriers.

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

4 Section 5. The Telephone Company Act is amended by
5 adding Section 6 as follows:

6 (220 ILCS 65/6 new)

7 Sec. 6. Entry upon property of public utilities,
8 railroads, or pipelines. Notwithstanding the foregoing, no
9 telecommunications carrier shall enter upon any real estate
10 or rights of way in the possession or control of any public
11 utility, railroad or owner or operator of an oil, petroleum
12 product, chemical or gas pipeline to install or remove
13 telecommunications facilities or to provide underground
14 maintenance or repair services with respect thereto, prior to
15 delivery to the public utility, railroad or pipeline owner or
16 operator of written notice of intent to enter, install,
17 maintain, or remove. No entry shall be made until at least
18 15 business days after receipt of such written notice. Such
19 written notice, which shall be delivered to the registered
20 agent of such public utility, railroad, or pipeline owner or
21 operator shall include the following information:

22 (i) The date of the proposed installation, maintenance,
23 repair, or removal and projected length of time required to
24 complete such installation, maintenance, repair, or removal;

25 (ii) The manner and method of such installation,
26 maintenance, repair, or removal;

27 (iii) The location of the proposed entry and path of the
28 telecommunications facilities proposed to be placed,
29 repaired, maintained, or removed upon the real estate or
30 right of way; and

31 (iv) The written agreement of the telecommunications

1 carrier to indemnify and hold harmless such public utility,
2 railroad, or pipeline owner or operator from the costs of any
3 damages directly or indirectly caused by the installation,
4 maintenance, repair, operation, or removal of
5 telecommunications facilities. Upon request of the public
6 utility, railroad, or owner or operator of an oil, petroleum
7 product, chemical, or gas pipeline, the telecommunications
8 carrier shall provide proof that it has purchased and will
9 maintain a policy or policies of insurance in amounts
10 sufficient to provide coverage for personal injury and
11 property damage losses caused by or resulting from the
12 installation, maintenance, repair, or removal of
13 telecommunications facilities. The written agreement shall
14 provide that the telecommunications carrier shall maintain
15 such policies of insurance in full force and effect as long
16 as telecommunications facilities remain on the real estate or
17 right of way.

18 Within 15 business days after receipt after the written
19 prior notice of entry the public utility, railroad, or
20 pipeline owner or operator shall investigate and determine
21 whether or not the proposed entry and installation or repair,
22 maintenance, or removal would create a dangerous condition
23 threatening the safety of the public or the safety of its
24 employees or threatening to cause an interruption of the
25 furnishing of vital transportation, utility, or pipeline
26 services and upon so finding shall so notify the
27 telecommunications carrier of such decision in writing.
28 Initial determination of the existence of such a dangerous
29 condition or interruption of services shall be made by the
30 public utility, railroad, or pipeline owner or operator whose
31 real estate or right of way is involved. In the event that
32 the telecommunications carrier disagrees with such
33 determination, a determination of whether such entry and
34 installation, maintenance, repair, or removal would create

1 such a dangerous condition or interrupt services shall be
2 made by a court of competent jurisdiction upon the
3 application of such telecommunications carrier. An initial
4 written determination of a public utility, railroad, or
5 pipeline owner or operator timely made and transmitted to the
6 telecommunications carrier, in the absence of a determination
7 by a court of competent jurisdiction finding to the contrary,
8 bars the entry of the telecommunications carrier upon the
9 real estate or right of way for any purpose.

10 Any public utility, railroad, or pipeline owner or
11 operator may assert a written claim against any
12 telecommunications carrier for just compensation within 30
13 days after written notice has been given in accordance with
14 this Section. If, within 60 days after the receipt of such
15 claim for compensation, the telecommunications carrier has
16 not agreed to the amount claimed or some other amount
17 acceptable to the public utility, railroad, or pipeline owner
18 or operator, the public utility, railroad, or pipeline owner
19 or operator may bring suit to enforce such claim for just
20 compensation in any court of competent jurisdiction and, upon
21 timely demand, may require that the amount of just
22 compensation be determined by a jury. Any such action shall
23 be commenced within 6 months after the notice provided for in
24 this Section. In any action brought to determine such just
25 compensation, the public utility, railroad, or pipeline owner
26 or operator may submit such evidence as may be relevant to
27 the issue of just compensation. Neither the assertion of a
28 claim for compensation nor the initiation of legal action to
29 enforce such claim shall delay or impair the right of the
30 telecommunications carrier to construct or install
31 telecommunications facilities upon any real estate or rights
32 of way of any public utility, railroad, or pipeline owner or
33 operator.

34 To the extent that the public utility, railroad, or owner

1 or operator of an oil, petroleum product, chemical, or gas
2 pipeline deems it appropriate to supervise, monitor, or
3 otherwise assist the telecommunication carrier in connection
4 with the installation, maintenance, repair, or removal of
5 telecommunications facilities upon such real estate or rights
6 of way, the telecommunications carrier shall reimburse the
7 public utility, railroad, or owner or operator of an oil,
8 petroleum product, chemical, or gas pipeline for costs
9 reasonable and actually incurred in connection therewith.

10 The provisions of this Section shall not be applicable to
11 any easements, rights of way, or ways for public service
12 facilities in which public utilities, other than railroads,
13 have any interest pursuant to the Plat Act and all ordinances
14 enacted pursuant thereto. Such easements, rights of way and
15 ways for public service facilities are hereby declared to be
16 apportionable and upon written request by a
17 telecommunications carrier, public utilities shall make such
18 easements, rights of way, and ways for public service
19 facilities available for the construction, maintenance,
20 repair, or removal of telecommunications facilities provided
21 that such construction, maintenance, repair, or removal does
22 not create a dangerous condition threatening the safety of
23 the public or the safety of such public utility employees or
24 threatening to cause an interruption of the furnishing of
25 vital utility service. Initial determination of the
26 existence of such a dangerous condition or interruption of
27 services shall be made by the public utility whose easement,
28 right of way, or way for public service facility is involved.
29 In the event the telecommunications carrier disagrees with
30 such determination, a determination of whether such
31 construction, maintenance, repair, or removal would create
32 such a dangerous condition or threaten to interrupt vital
33 utility services, shall be made by a court of competent
34 jurisdiction upon the application of such telecommunications

1 carrier.

2 In addition to such other notices as may be required by
3 this Section, a telecommunications carrier shall not enter
4 upon the real estate or rights of way of any public utility,
5 railroad, or pipeline owner or operator for the purposes of
6 above-ground maintenance or repair of its telecommunications
7 facilities without giving 96 hours prior written notice to
8 the registered agent of the public utility, railroad, or
9 pipeline owner or operator involved, or in the case of a
10 public utility, giving notice through the statewide one-call
11 notice system provided for by General Order of the Illinois
12 Commerce Commission or, if in Chicago, through the system
13 known as the Chicago Utility Alert Network.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.