



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB1145**

Introduced 02/08/05, by Rep. Julie Hamos

**SYNOPSIS AS INTRODUCED:**

220 ILCS 5/5-109

from Ch. 111 2/3, par. 5-109

Amends the Public Utilities Act. Requires a public utility seeking to classify information as proprietary or confidential to (i) identify to the Illinois Commerce Commission each and every piece of information it seeks to classify in that manner and (ii) justify the withholding of that information from public inspection. Provides that the existence of competition for a particular service is not alone sufficient justification for withholding information from public inspection. Provides that certain information is not confidential or proprietary. Effective immediately.

LRB094 06964 MKM 37079 b

1 AN ACT concerning regulation.

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

4 Section 5. The Public Utilities Act is amended by changing  
5 Section 5-109 as follows:

6 (220 ILCS 5/5-109) (from Ch. 111 2/3, par. 5-109)

7 Sec. 5-109. Reports; false reports; penalty; confidential  
8 and proprietary information.

9 (a) Each public utility in the State, other than a  
10 commercial mobile radio service provider, shall each year  
11 furnish to the Commission, in such form as the Commission shall  
12 require, annual reports as to all the items mentioned in the  
13 preceding Sections of this Article, and in addition such other  
14 items, whether of a nature similar to those therein enumerated  
15 or otherwise, as the Commission may prescribe. Such annual  
16 reports shall contain all the required information for the  
17 period of 12 months ending on June 30 in each year, or ending  
18 on December 31 in each year, as the Commission may by order  
19 prescribe for each class of public utilities, except commercial  
20 mobile radio service providers, and shall be filed with the  
21 Commission at its office in Springfield within 3 months after  
22 the close of the year for which the report is made. The  
23 Commission shall have authority to require any public utility  
24 to file monthly reports of earnings and expenses of such  
25 utility, and to file other periodical or special, or both  
26 periodical and special reports concerning any matter about  
27 which the Commission is authorized by law to keep itself  
28 informed. All reports shall be under oath.

29 (b) When any report is erroneous or defective or appears to  
30 the Commission to be erroneous or defective, the Commission may  
31 notify the public utility to amend such report within 30 days,  
32 and before or after the termination of such period the

1 Commission may examine the officers, agents, or employees, and  
2 books, records, accounts, vouchers, plant, equipment and  
3 property of such public utility, and correct such items in the  
4 report as upon such examination the Commission may find  
5 defective or erroneous.

6 (c) It is the policy of this State that public utilities  
7 subject to the jurisdiction of the Commission serve the public  
8 interest and that information provided by these utilities is  
9 presumed to be public information. All reports made to the  
10 Commission by any public utility and the contents thereof shall  
11 be open to public inspection, unless otherwise ordered by the  
12 Commission. Any public utility seeking to classify information  
13 as proprietary or confidential shall: (i) identify each and  
14 every piece of information it seeks to classify in that manner  
15 and (ii) justify to the Commission the withholding of that  
16 information from the public. The existence of competition for a  
17 particular service is not alone sufficient to justify  
18 withholding information from public inspection.

19 The following information is not confidential or  
20 proprietary:

21 (1) the availability of and location of services;

22 (2) the rates, fees, or prices charged for available  
23 services in this State;

24 (3) information aggregated by customer class, by  
25 service type, by region, Statewide, or for more than one  
26 company;

27 (4) information concerning the market used or relied  
28 upon by the Commission in approving a tariff or electric  
29 rates under Section 16-111 and 16-112, including, but not  
30 limited to, the price of the electric power and energy  
31 component to the utility, the number and identity of  
32 companies participating in the market, products offered in  
33 the market, and regional differences reflected in the  
34 market; and

35 (5) information otherwise publicly available.

36 (d) All reports made to the Commission by any public

1 utility ~~Such reports~~ shall be preserved in the office of the  
2 Commission.

3 (e) Any public utility which fails to make and file any  
4 report called for by the Commission within the time specified;  
5 or to make specific answer to any question propounded by the  
6 Commission within 30 days from the time it is lawfully required  
7 to do so, or within such further time, not to exceed 90 days,  
8 as may in its discretion be allowed by the Commission, shall  
9 forfeit up to \$100 for each and every day it may so be in  
10 default if the utility collects less than \$100,000 annually in  
11 gross revenue; and if the utility collects \$100,000 or more  
12 annually in gross revenue, it shall forfeit \$1,000 per day for  
13 each and every day it is in default.

14 (f) Any person who willfully makes any false return or  
15 report to the Commission or to any member, officer, or employee  
16 thereof, any person who willfully, in a return or report,  
17 withholds or fails to provide material information to which the  
18 Commission is entitled under this Act and which information is  
19 either required to be filed by statute, rule, regulation,  
20 order, or decision of the Commission or has been requested by  
21 the Commission, and any person who willfully aids or abets such  
22 person shall be guilty of a Class A misdemeanor.

23 (Source: P.A. 93-132, eff. 7-10-03; 93-457, eff. 8-8-03;  
24 revised 9-12-03.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.