

1 AMENDMENT TO SENATE BILL 847

2 AMENDMENT NO. _____. Amend Senate Bill 847 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by
5 changing Section 2-202 and by adding Section 2-301 as
6 follows:

7 (220 ILCS 5/2-202) (from Ch. 111 2/3, par. 2-202)

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

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

1 public utilities and the means for eliminating or abating
2 those problems. Such proceeds shall be deposited in the
3 Public Utility Fund in the State treasury.

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

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

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

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

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

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

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

1 filing of a corrected return by any utility which has filed
2 an incorrect return and to direct the filing of a return by
3 any utility which has failed to submit a return. A
4 taxpayer's signing a fraudulent return under this Section is
5 perjury, as defined in Section 32-2 of the Criminal Code of
6 1961.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (3) determine the amount, if any, by which the sum

1 determined as provided in item (1) exceeds the amount
2 determined as provided in item (2).

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

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

1 under this Act. Any application of credit memoranda after the
2 period provided for in this Section is void.

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

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

11 (220 ILCS 5/2-301 new)

12 Sec. 2-301. Filing fees.

13 (a) In addition to any other fees and taxes imposed
14 pursuant to this Act, the Commission is authorized to
15 establish by rule filing fees for the following filings,
16 irrespective of whether those filings are made by electronic
17 means or otherwise:

18 (1) the filing of any rate;

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

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

25 (4) the filing of any petition or application for
26 special permission for the filing of such tariffs,
27 contracts, or ordinances;

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

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

32 (7) the filing of any application, petition,
33 complaint, negotiated agreement, arbitrated agreement, or

1 any other pleading, document, or writing that initiates a
2 contested case, licensing proceeding, rulemaking, rate
3 proceeding, declaratory ruling proceeding, or other
4 formal Commission proceeding, except a proceeding
5 initiated by the Commission itself.

6 The Commission may provide by rule for reasonable waivers
7 of, or reductions in, these fees, and shall provide by rule
8 that no filing fees shall be charged under this Section to
9 any municipality, county, or "statutory consumer protection
10 agency" as that term is defined in Section 9-102.1 of this
11 Act.

12 (b) The fees established by the Commission shall be set
13 at amounts reasonably calculated, on the basis of reasonable
14 projections based upon information for the most recent
15 12-month period available at the time the Commission's rules
16 are proposed, to produce revenues equal to \$500,000 per year.
17 This shall not be a limitation on the amount of fees actually
18 collected by the Commission under this Section. All fees
19 collected by the Commission under this Section shall be
20 deposited in the Public Utility Fund in the State treasury.
21 The Commission shall account separately for all moneys
22 received under this Section, and shall expend those moneys
23 only for the purposes of creating and maintaining one or
24 more electronic systems for the filing, maintenance, storage,
25 and retrieval of documents and information, including without
26 limitation rates, contracts, ordinances, reports,
27 certifications, petitions, applications, complaints,
28 negotiated agreements, arbitrated agreements, pleadings,
29 writings, and all evidence and documents that are part of the
30 Commission's record in formal proceedings. Moneys received by
31 the Commission under this Section shall not at any time be
32 appropriated or diverted to any other use or purpose.

33 (c) Upon failure to pay an applicable filing fee for any
34 document under this Section, the Commission shall neither

1 allow the filing nor entertain a proceeding concerning the
2 document. No prescribed time limit imposed on the Commission
3 or its proceedings begins to run until the applicable filing
4 fee is paid. In addition, and without limiting any power of
5 the Commission under any other Section of this Act to revoke,
6 rescind, or reconsider any certificate issued under this Act,
7 failure to pay any filing fee for an annual report or annual
8 certification required by this Act or by Commission rule
9 shall be grounds for the revocation or suspension of the
10 non-paying entity's certificate of public convenience and
11 necessity, certificate of service authority, certificate
12 authorizing operations as a common carrier by pipeline, or
13 other franchise, license, permit, or right to own, operate,
14 manage, or control any public utility, telecommunications
15 carrier, common carrier by pipeline, or alternative retail
16 electric supplier.

17 (d) This Section is repealed effective July 1, 2007.

18 Section 10. The Illinois Vehicle Code is amended by
19 adding Section 18c-1502.15 as follows:

20 (625 ILCS 5/18c-1502.15 new)

21 Sec 18c-1502.15. Appropriations for Electronic One-Stop
22 System. Each fiscal year from fiscal year 2003 through and
23 including fiscal year 2007, the General Assembly may
24 appropriate up to \$500,000 from the Transportation Regulatory
25 Fund to support the Commission's operation of an Electronic
26 One-Stop System.

27 Section 99. Effective date. This Act takes effect upon
28 becoming law."