

1 the State of Illinois, for the purpose of having the
2 violation or threatened violation stopped and prevented,
3 either by mandamus or injunction.

4 The Commission may express its opinion in a resolution
5 based upon whatever facts and evidence have come to its
6 attention and may issue the resolution ex parte and without
7 holding any administrative hearing before bringing suit.
8 Except in cases involving an imminent threat to the public
9 health or public safety, no such resolution shall be adopted
10 until 48 hours after the public utility has been given notice
11 of (i) the substance of the alleged violation, including a
12 citation to the law or order, decision, rule, regulation, or
13 direction of the Commission alleged to have been violated and
14 (ii) the time and date of the meeting at which such
15 resolution will first be before the Commission for
16 consideration.

17 The Commission shall file the action or proceeding by
18 complaint in the circuit court, alleging the violation or
19 threatened violation complained of, and praying for
20 appropriate relief by way of mandamus or injunction. It
21 shall thereupon be the duty of the court to specify a time,
22 not exceeding 20 days after the service of the copy of the
23 complaint, within which the public utility complained of must
24 answer the complaint, and in the meantime said public utility
25 may be restrained. In case of default in answer, or after
26 answer, the court shall immediately inquire into the facts
27 and circumstances of the case. Such corporation or persons
28 as the court may deem necessary or proper to be joined as
29 parties, in order to make its judgment, or order effective,
30 may be joined as parties. The final judgment in any action
31 or proceeding shall either dismiss the action or proceeding
32 or grant relief by mandamus or injunction or be made
33 permanent as prayed for in the complaint, or in such modified
34 or other form as will afford appropriate relief. An appeal

1 may be taken from such final judgment as in other civil
2 cases.

3 (Source: P.A. 84-617.)

4 (220 ILCS 5/4-203) (from Ch. 111 2/3, par. 4-203)

5 Sec. 4-203. Action to recover penalties.

6 (a) All civil penalties established under this Act shall
7 be assessed and collected by the Commission. Except for the
8 penalties provided under Section 2-202, civil penalties may
9 be assessed only after notice and opportunity to be heard.
10 Any such civil penalty may be compromised by the Commission.
11 In determining the amount of the penalty, or the amount
12 agreed to in compromise, the Commission shall consider the
13 appropriateness of the penalty to the size of the business of
14 the public utility, corporation other than a public utility,
15 or person acting as a public utility charged, the gravity of
16 the violation, and the good faith of the public utility,
17 corporation other than a public utility, or person acting as
18 a public utility charged in attempting to achieve compliance
19 after notification of a violation. Nothing in this Section,
20 however, increases or decreases any minimum or maximum
21 penalty prescribed elsewhere in this Act.

22 (b) If timely judicial review of a Commission order that
23 imposes a civil penalty is taken by the public utility,
24 corporation other than a public utility, or person acting as
25 a public utility on which the civil penalty has been imposed,
26 the reviewing court shall enter a judgment on all amounts
27 upon affirmance of the Commission order. If timely judicial
28 review is not taken and the civil penalty remains unpaid for
29 60 days after service of the order, the Commission in its
30 discretion may either begin revocation proceedings or bring
31 suit to recover the penalties. Unless stayed by a reviewing
32 court, interest shall accrue from 60 days after the date of
33 service of the Commission order.

1 (c) Actions to recover delinquent civil penalties under
2 this Act shall be brought in the name of the People of the
3 State of Illinois in the circuit court in and for the county
4 in which the cause, or some part thereof, arose, or in which
5 the corporation complained of, if any, has its principal
6 place of business, or in which the person, if any, complained
7 of, resides. The action shall be commenced and prosecuted to
8 final judgment by the Commission. In any such action, all
9 interest incurred up to the time of final court judgment may
10 be sued for and recovered in that action. In all such
11 actions, the procedure and rules of evidence shall be the
12 same as in ordinary civil actions, except as otherwise herein
13 provided. All fines and penalties recovered by the State in
14 any such action shall be paid into the State treasury to the
15 credit of the General Revenue Fund. Any such action may be
16 compromised or discontinued on application of the Commission
17 upon such terms as the court shall approve and order.

18 (d) Civil penalties related to the late filing of
19 reports, taxes, or other filings shall be paid into the State
20 Treasury to the credit of the Public Utility Fund. Except as
21 otherwise provided in this Act, all other fines and civil
22 penalties shall be paid into the State Treasury to the credit
23 of the General Revenue Fund. Except-as-otherwise-provided--in
24 this--Act,--actions-to-recover-penalties-under-this-Act-shall
25 be-brought-in-the-name-of-the-People-of-the-State-of-Illinois
26 in-the-circuit-court-in-and--for--the--county--in--which--the
27 cause,--or--some--part--thereof,--arose,--or--in--which--the
28 corporation-complained-of,--if-any,--has-its-principal-place-of
29 business,--or-in-which-the--person,--if--any,--complained--of,
30 resides.--The--action--shall--be--commenced-and-prosecuted-to
31 final-judgment-by-the-Commission.--In--any--such--action,--all
32 penalties--incurred-up-to-the-time-of-commencing-the-same-may
33 be-sued-for-and-recovered.--In-all-such-actions,--the-procedure
34 and-rules-of-evidence-shall-be-the-same-as-in-ordinary--civil

1 actions,--except--as--otherwise--herein--provided.--All--fines--and
 2 penalties--recovered--by--the--State--in--any--such--action--shall--be
 3 paid--into--the--State--treasury--to--the--credit--of--the--general
 4 fund.--Any--such--action--may--be--compromised--or--discontinued--on
 5 application--of--the--Commission--upon--such--terms--as--the--court
 6 shall--approve--and--order.

7 (Source: P.A. 84-617.)

8 (220 ILCS 5/5-202) (from Ch. 111 2/3, par. 5-202)

9 Sec. 5-202. Violations; penalty. Any public utility, or
 10 any corporation other than a public utility, or any person
 11 acting as a public utility, that which violates or fails to
 12 comply with any provisions of this Act, or that which fails
 13 to obey, observe, or comply with any order, decision, rule,
 14 regulation, direction, or requirement, or any part or
 15 provision thereof, of the Commission, made or issued under
 16 authority of this Act, in a case in which a penalty is not
 17 otherwise provided for in this Act, shall be subject to a
 18 civil penalty imposed in the manner provided in Section
 19 4-203. A small public utility, as defined in subsection (b)
 20 of Section 4-502 of this Act, is subject to a civil penalty
 21 of not less than \$500 nor more than \$2,000 for each and every
 22 offense. All other public utilities, corporations other than
 23 a public utility, and persons acting as a public utility are
 24 subject to a civil penalty of up to \$30,000 for each and
 25 every offense.

26 Every violation of the provisions of this Act or of any
 27 order, decision, rule, regulation, direction, or requirement
 28 of the Commission, or any part or portion thereof, by any
 29 corporation or person, is a separate and distinct offense,
 30 and in case of a continuing violation, each day's continuance
 31 thereof shall be a separate and distinct offense; provided,
 32 however, that the cumulative penalty for any continuing
 33 violation shall not exceed \$500,000.

1 In construing and enforcing the provisions of this Act
 2 relating to penalties, the act, omission, or failure of any
 3 officer, agent, or employee of any public utility,
 4 corporation other than a public utility, or person acting as
 5 a public utility, that is acting within the scope of his
 6 official duties or employment, shall in every case be deemed
 7 to be the act, omission, or failure of such public utility,
 8 corporation other than a public utility, or person acting as
 9 a public utility.

10 If the party who has violated or failed to comply with
 11 this Act or an order, decision, rule, regulation, direction,
 12 or requirement of the Commission, or any part or provision
 13 thereof, fails to seek review pursuant to Sections 10-113 and
 14 10-201 of this Act within 30 days after of service of the
 15 order, the party shall, upon expiration of the 30 days, be
 16 subject to the civil penalty provision of this Section.

17 ~~No--penalties--shall--accerue--under--this--provision--until--15~~
 18 ~~days--after--the--mailing--of--a--notice--to--such--party--or--parties~~
 19 ~~that--they--are--in--violation--of--or--have--failed--to--comply--with~~
 20 ~~the--Act--or--order,--decision,--rule,--regulation,--direction,--or~~
 21 ~~requirement--of--the--Commission--or--any--part--or--provision~~
 22 ~~thereof.~~

23 (Source: P.A. 87-164.)

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