



Sen. William R. Haine

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LRB096 14943 AMC 40164 a

1 AMENDMENT TO HOUSE BILL 4649

2 AMENDMENT NO. _____. Amend House Bill 4649 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Sections 8-406, 8-509, and 8-510 and by adding Section 8-406.1
6 as follows:

7 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

8 Sec. 8-406. Certificate of public convenience and
9 necessity.

10 (a) No public utility not owning any city or village
11 franchise nor engaged in performing any public service or in
12 furnishing any product or commodity within this State as of
13 July 1, 1921 and not possessing a certificate of public
14 convenience and necessity from the Illinois Commerce
15 Commission, the State Public Utilities Commission or the Public
16 Utilities Commission, at the time this amendatory Act of 1985

1 goes into effect, shall transact any business in this State
2 until it shall have obtained a certificate from the Commission
3 that public convenience and necessity require the transaction
4 of such business.

5 (b) No public utility shall begin the construction of any
6 new plant, equipment, property or facility which is not in
7 substitution of any existing plant, equipment, property or
8 facility or any extension or alteration thereof or in addition
9 thereto, unless and until it shall have obtained from the
10 Commission a certificate that public convenience and necessity
11 require such construction. Whenever after a hearing the
12 Commission determines that any new construction or the
13 transaction of any business by a public utility will promote
14 the public convenience and is necessary thereto, it shall have
15 the power to issue certificates of public convenience and
16 necessity. The Commission shall determine that proposed
17 construction will promote the public convenience and necessity
18 only if the utility demonstrates: (1) that the proposed
19 construction is necessary to provide adequate, reliable, and
20 efficient service to its customers and is the least-cost means
21 of satisfying the service needs of its customers or that the
22 proposed construction will promote the development of an
23 effectively competitive electricity market that operates
24 efficiently, is equitable to all customers, and is the least
25 cost means of satisfying those objectives; (2) that the utility
26 is capable of efficiently managing and supervising the

1 construction process and has taken sufficient action to ensure
2 adequate and efficient construction and supervision thereof;
3 and (3) that the utility is capable of financing the proposed
4 construction without significant adverse financial
5 consequences for the utility or its customers.

6 (c) After the effective date of this amendatory Act of
7 1987, no construction shall commence on any new nuclear power
8 plant to be located within this State, and no certificate of
9 public convenience and necessity or other authorization shall
10 be issued therefor by the Commission, until the Director of the
11 Illinois Environmental Protection Agency finds that the United
12 States Government, through its authorized agency, has
13 identified and approved a demonstrable technology or means for
14 the disposal of high level nuclear waste, or until such
15 construction has been specifically approved by a statute
16 enacted by the General Assembly.

17 As used in this Section, "high level nuclear waste" means
18 those aqueous wastes resulting from the operation of the first
19 cycle of the solvent extraction system or equivalent and the
20 concentrated wastes of the subsequent extraction cycles or
21 equivalent in a facility for reprocessing irradiated reactor
22 fuel and shall include spent fuel assemblies prior to fuel
23 reprocessing.

24 (d) In making its determination, the Commission shall
25 attach primary weight to the cost or cost savings to the
26 customers of the utility. The Commission may consider any or

1 all factors which will or may affect such cost or cost savings,
2 including the public utility's engineering judgment regarding
3 the materials used for construction.

4 (e) The Commission may issue a temporary certificate which
5 shall remain in force not to exceed one year in cases of
6 emergency, to assure maintenance of adequate service or to
7 serve particular customers, without notice or hearing, pending
8 the determination of an application for a certificate, and may
9 by regulation exempt from the requirements of this Section
10 temporary acts or operations for which the issuance of a
11 certificate will not be required in the public interest.

12 A public utility shall not be required to obtain but may
13 apply for and obtain a certificate of public convenience and
14 necessity pursuant to this Section with respect to any matter
15 as to which it has received the authorization or order of the
16 Commission under the Electric Supplier Act, and any such
17 authorization or order granted a public utility by the
18 Commission under that Act shall as between public utilities be
19 deemed to be, and shall have except as provided in that Act the
20 same force and effect as, a certificate of public convenience
21 and necessity issued pursuant to this Section.

22 No electric cooperative shall be made or shall become a
23 party to or shall be entitled to be heard or to otherwise
24 appear or participate in any proceeding initiated under this
25 Section for authorization of power plant construction and as to
26 matters as to which a remedy is available under The Electric

1 Supplier Act.

2 (f) Such certificates may be altered or modified by the
3 Commission, upon its own motion or upon application by the
4 person or corporation affected. Unless exercised within a
5 period of 2 years from the grant thereof authority conferred by
6 a certificate of convenience and necessity issued by the
7 Commission shall be null and void.

8 No certificate of public convenience and necessity shall be
9 construed as granting a monopoly or an exclusive privilege,
10 immunity or franchise.

11 (g) A public utility that undertakes any of the actions
12 described in items (1) through (3) of this subsection (g) or
13 that has obtained approval pursuant to Section 8-406.1 of this
14 Act shall not be required to comply with the requirements of
15 this Section to the extent such requirements otherwise would
16 apply. For purposes of this Section and Section 8-406.1 of this
17 Act, "high voltage electric service line" means an electric
18 line having a design voltage of 100,000 or more. For purposes
19 of this subsection (g), a public utility may do any of the
20 following:

21 (1) replace or upgrade any existing high voltage
22 electric service line and related facilities,
23 notwithstanding its length;

24 (2) relocate any existing high voltage electric
25 service line and related facilities, notwithstanding its
26 length, to accommodate construction or expansion of a

1 roadway or other transportation infrastructure; or

2 (3) construct a high voltage electric service line and
3 related facilities that is constructed solely to serve a
4 single customer's premises or to provide a generator
5 interconnection to the public utility's transmission
6 system and that will pass under or over the premises owned
7 by the customer or generator to be served or under or over
8 premises for which the customer or generator has secured
9 the necessary right of way.

10 (Source: P.A. 95-700, eff. 11-9-07.)

11 (220 ILCS 5/8-406.1 new)

12 Sec. 8-406.1. Certificate of public convenience and
13 necessity; expedited procedure.

14 (a) A public utility may apply for a certificate of public
15 convenience and necessity pursuant to this Section for the
16 construction of any new high voltage electric service line and
17 related facilities (Project). To facilitate the expedited
18 review process of an application filed pursuant to this
19 Section, an application shall include all of the following:

20 (1) Information in support of the application that
21 shall include the following:

22 (A) A detailed description of the Project,
23 including location maps and plot plans to scale showing
24 all major components.

25 (B) The following engineering data:

1 (i) a detailed Project description including:

2 (I) name and destination of the Project;

3 (II) design voltage rating (kV);

4 (III) operating voltage rating (kV); and

5 (IV) normal peak operating current rating;

6 (ii) a conductor, structures, and substations
7 description including:

8 (I) conductor size and type;

9 (II) type of structures;

10 (III) height of typical structures;

11 (IV) an explanation why these structures
12 were selected;

13 (V) dimensional drawings of the typical
14 structures to be used in the Project; and

15 (VI) a list of the names of all new (and
16 existing if applicable) substations or
17 switching stations that will be associated
18 with the proposed new high voltage electric
19 service line;

20 (iii) the location of the site and
21 right-of-way including:

22 (I) miles of right-of-way;

23 (II) miles of circuit;

24 (III) width of the right-of-way; and

25 (IV) a brief description of the area
26 traversed by the proposed high voltage

1 electric service line, including a description
2 of the general land uses in the area and the
3 type of terrain crossed by the proposed line;
4 (iv) assumptions, bases, formulae, and methods
5 used in the development and preparation of the
6 diagrams and accompanying data, and a technical
7 description providing the following information:

8 (I) number of circuits, with
9 identification as to whether the circuit is
10 overhead or underground;

11 (II) the operating voltage and frequency;

12 and

13 (III) conductor size and type and number
14 of conductors per phase;

15 (v) if the proposed interconnection is an
16 overhead line, the following additional
17 information also must be provided:

18 (I) the wind and ice loading design
19 parameters;

20 (II) a full description and drawing of a
21 typical supporting structure, including
22 strength specifications;

23 (III) structure spacing with typical
24 ruling and maximum spans;

25 (IV) conductor (phase) spacing; and

26 (V) the designed line-to-ground and

1 conductor-side clearances;

2 (vi) if an underground or underwater
3 interconnection is proposed, the following
4 additional information also must be provided:

5 (I) burial depth;

6 (II) type of cable and a description of any
7 required supporting equipment, such as
8 insulation medium pressurizing or forced
9 cooling;

10 (III) cathodic protection scheme; and

11 (IV) type of dielectric fluid and
12 safeguards used to limit potential spills in
13 waterways;

14 (vii) technical diagrams that provide
15 clarification of any item under this item (1)
16 should be included; and

17 (viii) applicant shall provide and identify a
18 primary right-of-way and one or more alternate
19 rights-of-way for the Project as part of the
20 filing. To the extent applicable, for each
21 right-of-way, applicant shall provide the
22 information described in this subsection (a). Upon
23 a showing of good cause in its filing, an applicant
24 may be excused from providing and identifying
25 alternate rights-of-way.

26 (2) An application fee of \$100,000, which shall be paid

1 into the Public Utility Fund at the time the Chief Clerk of
2 the Commission deems it complete and accepts the filing.

3 (3) Information showing that the utility has held a
4 minimum of 3 pre-filing public meetings to receive public
5 comment concerning the Project in each county where the
6 Project is to be located, no earlier than 6 months prior to
7 the filing of the application. Notice of the public meeting
8 shall be published in a newspaper of general circulation
9 within the affected county once a week for 3 consecutive
10 weeks, beginning no earlier than one month prior to the
11 first public meeting. If the Project traverses 2 contiguous
12 counties and where in one county the transmission line
13 mileage and number of landowners over whose property the
14 proposed route traverses is 1/5 or less of the transmission
15 line mileage and number of such landowners of the other
16 county, then the utility may combine the 3 pre-filing
17 meetings in the county with the greater transmission line
18 mileage and affected landowners. All other requirements
19 regarding pre-filing meetings shall apply in both
20 counties. Notice of the public meeting, including a
21 description of the Project, must be provided in writing to
22 the clerk of each county where the Project is to be
23 located. A representative of the Commission shall be
24 invited to each pre-filing public meeting.

25 (b) At the first status hearing the administrative law
26 judge shall set a schedule for discovery that shall take into

1 consideration the expedited nature of the proceeding.

2 (c) Nothing in this Section prohibits a utility from
3 requesting, or the Commission from approving, protection of
4 confidential or proprietary information under applicable law.
5 The public utility may seek confidential protection of any of
6 the information provided pursuant to this Section, subject to
7 Commission approval.

8 (d) The public utility shall publish notice of its
9 application in the official State newspaper within 10 days
10 following the date of the application's filing.

11 (e) The public utility shall establish a dedicated website
12 for the Project 3 weeks prior to the first public meeting and
13 maintain the website until construction of the Project is
14 complete. The website address shall be included in all public
15 notices.

16 (f) The Commission shall, after notice and hearing, grant a
17 certificate of public convenience and necessity filed in
18 accordance with the requirements of this Section if, based upon
19 the application filed with the Commission and the evidentiary
20 record, it finds the Project will promote the public
21 convenience and necessity and that all of the following
22 criteria are satisfied:

23 (1) That the Project is necessary to provide adequate,
24 reliable, and efficient service to the public utility's
25 customers and is the least-cost means of satisfying the
26 service needs of the public utility's customers or that the

1 Project will promote the development of an effectively
2 competitive electricity market that operates efficiently,
3 is equitable to all customers, and is the least cost means
4 of satisfying those objectives.

5 (2) That the public utility is capable of efficiently
6 managing and supervising the construction process and has
7 taken sufficient action to ensure adequate and efficient
8 construction and supervision of the construction.

9 (3) That the public utility is capable of financing the
10 proposed construction without significant adverse
11 financial consequences for the utility or its customers.

12 (g) The Commission shall issue its decision with findings
13 of fact and conclusions of law granting or denying the
14 application no later than 150 days after the application is
15 filed. The Commission may extend the 150-day deadline upon
16 notice by an additional 75 days if, on or before the 30th day
17 after the filing of the application, the Commission finds that
18 good cause exists to extend the 150-day period.

19 (h) In the event the Commission grants a public utility's
20 application for a certificate pursuant to this Section, the
21 public utility shall pay a one-time construction fee to each
22 county in which the Project is constructed within 30 days after
23 the completion of construction. The construction fee shall be
24 \$20,000 per mile of high voltage electric service line
25 constructed in that county, or a proportionate fraction of that
26 fee. The fee shall be in lieu of any permitting fees that

1 otherwise would be imposed by a county. Counties receiving a
2 payment under this subsection (h) may distribute all or
3 portions of the fee to local taxing districts in that county.

4 (i) Notwithstanding any other provisions of this Act, a
5 decision granting a certificate under this Section shall
6 include an order pursuant to Section 8-503 of this Act
7 authorizing or directing the construction of the high voltage
8 electric service line and related facilities as approved by the
9 Commission, in the manner and within the time specified in said
10 order.

11 (220 ILCS 5/8-509) (from Ch. 111 2/3, par. 8-509)

12 Sec. 8-509. When necessary for the construction of any
13 alterations, additions, extensions or improvements ordered or
14 authorized under Section 8-406.1, 8-503, or 12-218 of this Act,
15 any public utility may enter upon, take or damage private
16 property in the manner provided for by the law of eminent
17 domain. If a public utility seeks relief under this Section in
18 the same proceeding in which it seeks a certificate of public
19 convenience and necessity under Section 8-406.1 of this Act,
20 the Commission shall enter its order under this Section either
21 as part of the Section 8-406.1 order or at the same time it
22 enters the Section 8-406.1 order. If a public utility seeks
23 relief under this Section after the Commission enters its order
24 in the Section 8-406.1 proceeding, the Commission shall issue
25 its order under this Section within 45 days after the utility

1 files its petition under this Section.

2 This Section applies to the exercise of eminent domain
3 powers by telephone companies or telecommunications carriers
4 only when the facilities to be constructed are intended to be
5 used in whole or in part for providing one or more intrastate
6 telecommunications services classified as "noncompetitive"
7 under Section 13-502 in a tariff filed by the condemnor. The
8 exercise of eminent domain powers by telephone companies or
9 telecommunications carriers in all other cases shall be
10 governed solely by "An Act relating to the powers, duties and
11 property of telephone companies", approved May 16, 1903, as now
12 or hereafter amended.

13 (Source: P.A. 86-221.)

14 (220 ILCS 5/8-510) (from Ch. 111 2/3, par. 8-510)

15 Sec. 8-510. Land surveys and land use studies. For the
16 purpose of making land surveys and land use studies, any public
17 utility that has been granted a certificate of public
18 convenience and necessity by, or received an order under
19 Section 8-503 or 8-406.1 of this Act from, the Commission may,
20 30 days after providing written notice to the owner thereof by
21 registered mail, enter upon the property of any owner who has
22 refused permission for entrance upon that property, but subject
23 to responsibility for all damages which may be inflicted
24 thereby.

25 (Source: P.A. 90-561, eff. 12-16-97.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".