

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 15-401 as follows:

6 (220 ILCS 5/15-401)

7 Sec. 15-401. Licensing.

8 (a) No person shall operate as a common carrier by pipeline
9 unless the person possesses a certificate in good standing
10 authorizing it to operate as a common carrier by pipeline. No
11 person shall begin or continue construction of a pipeline or
12 other facility, other than the repair or replacement of an
13 existing pipeline or facility, for use in operations as a
14 common carrier by pipeline unless the person possesses a
15 certificate in good standing.

16 (b) Requirements for issuance. The Commission, after a
17 hearing, shall grant an application for a certificate
18 authorizing operations as a common carrier by pipeline, in
19 whole or in part, to the extent that it finds that the
20 application was properly filed; a public need for the service
21 exists; the applicant is fit, willing, and able to provide the
22 service in compliance with this Act, Commission regulations,
23 and orders; and the public convenience and necessity requires

1 issuance of the certificate. Evidence encompassing any of the
2 factors described in items (1) through (9) of this subsection
3 (b) that is submitted by the applicant, any other party, or the
4 Commission's staff shall also be considered by the Commission
5 in determining whether a public need for the service exists
6 under either current or expected conditions. The changes in
7 this subsection (b) are intended to be confirmatory of existing
8 law.

9 In its determination of public convenience and necessity
10 for a proposed pipeline or facility designed or intended to
11 transport crude oil and any alternate locations for such
12 proposed pipeline or facility, the Commission shall consider,
13 but not be limited to, the following:

14 (1) any evidence presented by the Illinois
15 Environmental Protection Agency regarding the
16 environmental impact of the proposed pipeline or other
17 facility;

18 (2) any evidence presented by the Illinois Department
19 of Transportation regarding the impact of the proposed
20 pipeline or facility on traffic safety, road construction,
21 or other transportation issues;

22 (3) any evidence presented by the Department of Natural
23 Resources regarding the impact of the proposed pipeline or
24 facility on any conservation areas, forest preserves,
25 wildlife preserves, wetlands, or any other natural
26 resource;

1 (4) any evidence of the effect of the pipeline upon the
2 economy, infrastructure, and public safety presented by
3 local governmental units that will be affected by the
4 proposed pipeline or facility;

5 (5) any evidence of the effect of the pipeline upon
6 property values presented by property owners who will be
7 affected by the proposed pipeline or facility, provided
8 that the Commission need not hear evidence as to the actual
9 valuation of property such as that as would be presented to
10 and determined by the courts under the Eminent Domain Act;

11 (6) any evidence presented by the Department of
12 Commerce and Economic Opportunity regarding the current
13 and future local, State-wide, or regional economic effect,
14 direct or indirect, of the proposed pipeline or facility
15 including, but not limited to, property values, employment
16 rates, and residential and business development; ~~and~~

17 (7) any evidence addressing the factors described in
18 items (1) through (9) of this subsection (b) or other
19 relevant factors that is presented by any other State
20 agency, the applicant, a party, or other entity that
21 participates in the proceeding, including evidence
22 presented by the Commission's staff;-

23 (8) any evidence presented by a State agency or unit of
24 State or local government as to the current and future
25 national, State-wide, or regional economic effects of the
26 proposed pipeline, direct or indirect, as they affect

1 residents or businesses in Illinois, including, but not
2 limited to, such impacts as the ability of manufacturers in
3 Illinois to meet public demand for related services and
4 products and to compete in the national and regional
5 economies, improved access of suppliers to regional and
6 national shipping grids, the ability of the State to access
7 funds made available for energy infrastructure by the
8 federal government, mitigation of foreseeable spikes in
9 price affecting Illinois residents or businesses due to
10 sudden changes in supply or transportation capacity, and
11 the likelihood that the proposed construction will
12 substantially encourage related investment in the State's
13 energy infrastructure and the creation of energy related
14 jobs; and

15 (9) any evidence presented by any State or federal
16 governmental entity as to how the proposed pipeline or
17 facility will affect the security, stability, and
18 reliability of energy in the State or in the region.

19 In its written order, the Commission shall address all of
20 the evidence presented, and if the order is contrary to any of
21 the evidence, the Commission shall state the reasons for its
22 determination with regard to that evidence. ~~The provisions of~~
23 ~~this amendatory Act of 1996 apply to any certificate granted or~~
24 ~~denied after the effective date of this amendatory Act of 1996.~~

25 (c) An application filed pursuant to this Section may
26 request either that the Commission review and approve a

1 specific route for a pipeline, or that the Commission review
2 and approve a project route width that identifies the areas in
3 which the pipeline would be located, with such width ranging
4 from the minimum width required for a pipeline right-of-way up
5 to 500 feet in width. The purpose for allowing the option of
6 review and approval of a project route width is to provide
7 increased flexibility during the construction process to
8 accommodate specific landowner requests, avoid environmentally
9 sensitive areas, or address special environmental permitting
10 requirements.

11 (d) A common carrier by pipeline may request any other
12 approvals as may be needed from the Commission for completion
13 of the pipeline under Article VIII or any other Article or
14 Section of this Act at the same time, and as part of the same
15 application, as its request for a certificate of good standing
16 under this Section. The Commission's rules shall ensure that
17 notice of such a consolidated application is provided within 30
18 days after filing to the landowners along a proposed project
19 route, or to the potentially affected landowners within a
20 proposed project route width, using the notification
21 procedures set forth in the Commission's rules. If a
22 consolidated application is submitted, then the requests shall
23 be heard on a consolidated basis and a decision on all issues
24 shall be entered within the time frames stated in subsection
25 (e) of this Section. In such a consolidated proceeding, the
26 Commission may consider evidence relating to the same factors

1 identified in items (1) through (9) of subsection (b) of this
2 Section in granting authority under Section 8-503 of this Act.
3 If the Commission grants approval of a project route width as
4 opposed to a specific project route, then the common carrier by
5 pipeline must, as it finalizes the actual pipeline alignment
6 within the project route width, file its final list of affected
7 landowners with the Commission at least 14 days in advance of
8 beginning construction on any tract within the project route
9 width and also provide the Commission with at least 14 days
10 notice before filing a complaint for eminent domain in the
11 circuit court with regard to any tract within the project route
12 width.

13 (e) The Commission shall make its determination on any
14 application filed pursuant to this Section and issue its final
15 order within one year after the date that the application is
16 filed unless an extension is granted as provided in this
17 subsection (e). The Commission may extend the one-year time
18 period for issuing a final order on an application filed
19 pursuant to this Section up to an additional 6 months if it
20 finds, following the filing of initial testimony by the parties
21 to the proceeding, that due to the number of affected
22 landowners and other parties in the proceeding and the
23 complexity of the contested issues before it, additional time
24 is needed to ensure a complete review of the evidence. If an
25 extension is granted, then the schedule for the proceeding
26 shall not be further extended beyond this 6-month period, and

1 the Commission shall issue its final order within the 6-month
2 extension period. The Commission shall also have the power to
3 establish an expedited schedule for making its determination on
4 an application filed pursuant to this Section in less than one
5 year if it finds that the public interest requires the setting
6 of such an expedited schedule.

7 (f) Within 6 months after the Commission's entry of an
8 order approving either a specific route or a project route
9 width under this Section, the common carrier by pipeline that
10 receives such order may file supplemental applications for
11 minor route deviations outside the approved project route
12 width, allowing for additions or changes to the approved route
13 to address environmental concerns encountered during
14 construction or to accommodate landowner requests. Notice of a
15 supplemental application shall be provided to any State agency
16 that appeared in the original proceeding or immediately
17 affected landowner at the time such supplemental application is
18 filed. The route deviations shall be approved by the Commission
19 within 45 days, unless a written objection is filed to the
20 supplemental application within 20 days after the date such
21 supplemental application is filed. Hearings on any such
22 supplemental application shall be limited to the
23 reasonableness of the specific variance proposed, and the
24 issues of public need or public convenience or necessity for
25 the project or fitness of the applicant shall not be reopened
26 in the supplemental proceeding.

1 (g) The rules of the Commission may include additional
2 options for expediting the issuance of permits and certificates
3 under this Section. Such rules may provide that, in the event
4 that an applicant elects to use an option provided for in such
5 rules; (1) the applicant must request the use of the expedited
6 process at the time of filing its application for a license or
7 permit with the Commission; (2) the Commission may engage
8 experts and procure additional administrative resources that
9 are reasonably necessary for implementing the expedited
10 process; and (3) the applicant must bear any additional costs
11 incurred by the Commission as a result of the applicant's use
12 of such expedited process.

13 (h) ~~(e)~~ Duties and obligations of common carriers by
14 pipeline. Each common carrier by pipeline shall provide
15 adequate service to the public at reasonable rates and without
16 discrimination.

17 (Source: P.A. 94-793, eff. 5-19-06.)

18 Section 99. Effective date. This Act takes effect July 1,
19 2011.