



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB3457

Introduced 2/14/2014, by Sen. Sue Rezin - Chapin Rose

#### SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-406.1

220 ILCS 5/8-509

from Ch. 111 2/3, par. 8-509

Amends the Public Utilities Act. Provides that a public utility may apply for expedited review for a certificate of public convenience and necessity for the construction of any new high voltage service line that does not exceed 25 miles in length across privately owned real estate (instead of any new high voltage electric service line). Provides that privately owned real estate does not include a right-of-way owned in fee simple, subject to an easement, or controlled by a public utility. Provides that the changes shall apply to applications filed on or after this amendatory Act's effective date. Provides that if a public utility seeks to exercise its eminent domain powers after the Commerce Commission has issued an order regarding a certificate of public convenience and necessity, then the Commission must issue its order regarding eminent domain within 365 days (instead of 45 days) after the public utility files its petition. Effective immediately.

LRB098 16803 RPS 51873 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 Sections 8-406.1 and 8-509 as follows:

6 (220 ILCS 5/8-406.1)

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

9 (a) A public utility may apply for a certificate of public  
10 convenience and necessity pursuant to this Section for the  
11 construction of any new high voltage electric service line that  
12 does not exceed 25 miles in length across privately owned real  
13 estate and related facilities (Project). For purposes of this  
14 Section, "privately owned real estate" shall not include a  
15 right-of-way owned in fee simple, subject to an easement, or  
16 controlled by a public utility. To facilitate the expedited  
17 review process of an application filed pursuant to this  
18 Section, an application shall include all of the following:

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

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

- 1 (B) The following engineering data:
- 2 (i) a detailed Project description including:
- 3 (I) name and destination of the Project;
- 4 (II) design voltage rating (kV);
- 5 (III) operating voltage rating (kV); and
- 6 (IV) normal peak operating current rating;
- 7 (ii) a conductor, structures, and substations
- 8 description including:
- 9 (I) conductor size and type;
- 10 (II) type of structures;
- 11 (III) height of typical structures;
- 12 (IV) an explanation why these structures
- 13 were selected;
- 14 (V) dimensional drawings of the typical
- 15 structures to be used in the Project; and
- 16 (VI) a list of the names of all new (and
- 17 existing if applicable) substations or
- 18 switching stations that will be associated
- 19 with the proposed new high voltage electric
- 20 service line;
- 21 (iii) the location of the site and
- 22 right-of-way including:
- 23 (I) miles of right-of-way;
- 24 (II) miles of circuit;
- 25 (III) width of the right-of-way; and
- 26 (IV) a brief description of the area

1 traversed by the proposed high voltage  
2 electric service line, including a description  
3 of the general land uses in the area and the  
4 type of terrain crossed by the proposed line;

5 (iv) assumptions, bases, formulae, and methods  
6 used in the development and preparation of the  
7 diagrams and accompanying data, and a technical  
8 description providing the following information:

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

12 (II) the operating voltage and frequency;  
13 and

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

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

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

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

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

26 (IV) conductor (phase) spacing; and

1 (V) the designed line-to-ground and  
2 conductor-side clearances;

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

6 (I) burial depth;

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

11 (III) cathodic protection scheme; and

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

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

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

1           (2) An application fee of \$100,000, which shall be paid  
2 into the Public Utility Fund at the time the Chief Clerk of  
3 the Commission deems it complete and accepts the filing.

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

26           (b) At the first status hearing the administrative law

1 judge shall set a schedule for discovery that shall take into  
2 consideration the expedited nature of the proceeding.

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

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

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

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

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

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

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

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

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

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



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

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

12 (j) The changes made to this Section by this amendatory Act  
13 of the 98th General Assembly shall apply to all applications  
14 filed on or after the effective date of this amendatory Act.

15 (Source: P.A. 96-1348, eff. 7-28-10.)

16 (220 ILCS 5/8-509) (from Ch. 111 2/3, par. 8-509)

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

1 as part of the Section 8-406.1 order or at the same time it  
2 enters the Section 8-406.1 order. If a public utility seeks  
3 relief under this Section after the Commission enters its order  
4 in the Section 8-406.1 proceeding, the Commission shall issue  
5 its order under this Section within 365 ~~45~~ days after the  
6 utility files its petition under this Section.

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

18 (Source: P.A. 96-1348, eff. 7-28-10.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.