

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Public Utilities Act is amended by changing Section 15-401 as follows:

(220 ILCS 5/15-401)

Sec. 15-401. Licensing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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