

SB1874



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1874

Introduced 2/5/2025, by Sen. Patrick J. Joyce

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-406

from Ch. 111 2/3, par. 8-406

Amends the Public Utilities Act. In provisions regarding a certificate of public convenience and necessity, makes changes to the limitations on the construction of a nuclear power reactor. Provides that, beginning January 1, 2026, construction may commence on an advanced nuclear reactor (rather than a new nuclear power reactor with a nameplate capacity of 300 megawatts of electricity or less) within the State under specified conditions. Defines "advanced nuclear reactor". Makes other changes.

LRB104 07081 AAS 17118 b

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 Section 8-406 as follows:

6 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

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

9 (a) No public utility not owning any city or village
10 franchise nor engaged in performing any public service or in
11 furnishing any product or commodity within this State as of
12 July 1, 1921 and not possessing a certificate of public
13 convenience and necessity from the Illinois Commerce
14 Commission, the State Public Utilities Commission, or the
15 Public Utilities Commission, at the time Public Act 84-617
16 goes into effect (January 1, 1986), shall transact any
17 business in this State until it shall have obtained a
18 certificate from the Commission that public convenience and
19 necessity require the transaction of such business. A
20 certificate of public convenience and necessity requiring the
21 transaction of public utility business in any area of this
22 State shall include authorization to the public utility
23 receiving the certificate of public convenience and necessity

1 to construct such plant, equipment, property, or facility as
2 is provided for under the terms and conditions of its tariff
3 and as is necessary to provide utility service and carry out
4 the transaction of public utility business by the public
5 utility in the designated area.

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

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

7 (b-5) As used in this subsection (b-5):

8 "Qualifying direct current applicant" means an entity that
9 seeks to provide direct current bulk transmission service for
10 the purpose of transporting electric energy in interstate
11 commerce.

12 "Qualifying direct current project" means a high voltage
13 direct current electric service line that crosses at least one
14 Illinois border, the Illinois portion of which is physically
15 located within the region of the Midcontinent Independent
16 System Operator, Inc., or its successor organization, and runs
17 through the counties of Pike, Scott, Greene, Macoupin,
18 Montgomery, Christian, Shelby, Cumberland, and Clark, is
19 capable of transmitting electricity at voltages of 345
20 kilovolts or above, and may also include associated
21 interconnected alternating current interconnection facilities
22 in this State that are part of the proposed project and
23 reasonably necessary to connect the project with other
24 portions of the grid.

25 Notwithstanding any other provision of this Act, a
26 qualifying direct current applicant that does not own,

1 control, operate, or manage, within this State, any plant,
2 equipment, or property used or to be used for the transmission
3 of electricity at the time of its application or of the
4 Commission's order may file an application on or before
5 December 31, 2023 with the Commission pursuant to this Section
6 or Section 8-406.1 for, and the Commission may grant, a
7 certificate of public convenience and necessity to construct,
8 operate, and maintain a qualifying direct current project. The
9 qualifying direct current applicant may also include in the
10 application requests for authority under Section 8-503. The
11 Commission shall grant the application for a certificate of
12 public convenience and necessity and requests for authority
13 under Section 8-503 if it finds that the qualifying direct
14 current applicant and the proposed qualifying direct current
15 project satisfy the requirements of this subsection and
16 otherwise satisfy the criteria of this Section or Section
17 8-406.1 and the criteria of Section 8-503, as applicable to
18 the application and to the extent such criteria are not
19 superseded by the provisions of this subsection. The
20 Commission's order on the application for the certificate of
21 public convenience and necessity shall also include the
22 Commission's findings and determinations on the request or
23 requests for authority pursuant to Section 8-503. Prior to
24 filing its application under either this Section or Section
25 8-406.1, the qualifying direct current applicant shall conduct
26 3 public meetings in accordance with subsection (h) of this

1 Section. If the qualifying direct current applicant
2 demonstrates in its application that the proposed qualifying
3 direct current project is designed to deliver electricity to a
4 point or points on the electric transmission grid in either or
5 both the PJM Interconnection, LLC or the Midcontinent
6 Independent System Operator, Inc., or their respective
7 successor organizations, the proposed qualifying direct
8 current project shall be deemed to be, and the Commission
9 shall find it to be, for public use. If the qualifying direct
10 current applicant further demonstrates in its application that
11 the proposed transmission project has a capacity of 1,000
12 megawatts or larger and a voltage level of 345 kilovolts or
13 greater, the proposed transmission project shall be deemed to
14 satisfy, and the Commission shall find that it satisfies, the
15 criteria stated in item (1) of subsection (b) of this Section
16 or in paragraph (1) of subsection (f) of Section 8-406.1, as
17 applicable to the application, without the taking of
18 additional evidence on these criteria. Prior to the transfer
19 of functional control of any transmission assets to a regional
20 transmission organization, a qualifying direct current
21 applicant shall request Commission approval to join a regional
22 transmission organization in an application filed pursuant to
23 this subsection (b-5) or separately pursuant to Section 7-102
24 of this Act. The Commission may grant permission to a
25 qualifying direct current applicant to join a regional
26 transmission organization if it finds that the membership, and

1 associated transfer of functional control of transmission
2 assets, benefits Illinois customers in light of the attendant
3 costs and is otherwise in the public interest. Nothing in this
4 subsection (b-5) requires a qualifying direct current
5 applicant to join a regional transmission organization.
6 Nothing in this subsection (b-5) requires the owner or
7 operator of a high voltage direct current transmission line
8 that is not a qualifying direct current project to obtain a
9 certificate of public convenience and necessity to the extent
10 it is not otherwise required by this Section 8-406 or any other
11 provision of this Act.

12 (c) As used in this subsection (c):

13 "Advanced nuclear reactor" means a nuclear fission reactor
14 with significant improvements, including additional inherent
15 safety features, compared to reactors operating prior to
16 December 27, 2020 in the United States.

17 "Decommissioning" has the meaning given to that term in
18 subsection (a) of Section 8-508.1.

19 "Nuclear power reactor" has the meaning given to that term
20 in Section 8 of the Nuclear Safety Law of 2004.

21 ~~No After the effective date of this amendatory Act of the~~
22 ~~103rd General Assembly, no~~ construction shall commence on any
23 new nuclear power reactor ~~with a nameplate capacity of more~~
24 ~~than 300 megawatts of electricity to be located~~ within this
25 State, and no certificate of public convenience and necessity
26 or other authorization shall be issued therefor by the

1 Commission, unless (i) the new nuclear power reactor is an
2 advanced nuclear reactor, (ii) ~~until~~ the Illinois Emergency
3 Management Agency and Office of Homeland Security, in
4 consultation with the Illinois Environmental Protection Agency
5 and the Illinois Department of Natural Resources, finds that
6 the United States Government, through its authorized agency,
7 has identified and approved a demonstrable technology or means
8 for the disposal of high level nuclear waste, or (iii) ~~until~~
9 such construction has been specifically approved by a statute
10 enacted by the General Assembly. Beginning January 1, 2026,
11 construction may commence on an advanced nuclear reactor ~~a new~~
12 ~~nuclear power reactor with a nameplate capacity of 300~~
13 ~~megawatts of electricity or less~~ within this State if the
14 entity constructing the advanced nuclear reactor ~~new nuclear~~
15 ~~power reactor~~ has obtained all permits, licenses, permissions,
16 or approvals governing the construction, operation, and can
17 demonstrate adequate funding ~~of~~ decommissioning funding
18 assurance of such nuclear ~~power~~ reactors required by: (1) this
19 Act; (2) any rules adopted by the Illinois Emergency
20 Management Agency and Office of Homeland Security under the
21 authority of this Act; (3) any applicable federal statutes,
22 including, but not limited to, the Atomic Energy Act of 1954,
23 the Energy Reorganization Act of 1974, the Low-Level
24 Radioactive Waste Policy Amendments Act of 1985, and the
25 Energy Policy Act of 1992; (4) any regulations promulgated or
26 enforced by the U.S. Nuclear Regulatory Commission, including,

1 but not limited to, those codified at Title X, Parts 20, 30,
2 40, 50, 70, and 72 of the Code of Federal Regulations, as from
3 time to time amended; and (5) any other federal or State
4 statute, rule, or regulation governing the permitting,
5 licensing, operation, or decommissioning of such nuclear ~~power~~
6 reactors. None of the rules developed by the Illinois
7 Emergency Management Agency and Office of Homeland Security or
8 any other State agency, board, or commission pursuant to this
9 Act shall be construed to supersede the authority of the U.S.
10 Nuclear Regulatory Commission. These rules ~~The changes made by~~
11 ~~this amendatory Act of the 103rd General Assembly~~ shall not
12 apply to the uprate, renewal, or subsequent renewal of any
13 license for an existing nuclear power reactor that began
14 operation prior to June 1, 2024 (the effective date of Public
15 Act 103-569) ~~this amendatory Act of the 103rd General~~
16 ~~Assembly.~~

17 None of the changes made in Public Act 103-569 ~~this~~
18 ~~amendatory Act of the 103rd General Assembly~~ are intended to
19 authorize the construction of nuclear power plants powered by
20 nuclear power reactors that are not either: (1) advanced
21 nuclear reactors ~~small modular nuclear reactors~~; or (2)
22 nuclear power reactors licensed by the U.S. Nuclear Regulatory
23 Commission to operate in this State prior to the effective
24 date of this amendatory Act of the 104th General Assembly.
25 ~~this amendatory Act of the 103rd General Assembly.~~

26 (d) In making its determination under subsection (b) of

1 this Section, the Commission shall attach primary weight to
2 the cost or cost savings to the customers of the utility. The
3 Commission may consider any or all factors which will or may
4 affect such cost or cost savings, including the public
5 utility's engineering judgment regarding the materials used
6 for construction.

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

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

25 No electric cooperative shall be made or shall become a
26 party to or shall be entitled to be heard or to otherwise

1 appear or participate in any proceeding initiated under this
2 Section for authorization of power plant construction and as
3 to matters as to which a remedy is available under the Electric
4 Supplier Act.

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

11 No certificate of public convenience and necessity shall
12 be construed as granting a monopoly or an exclusive privilege,
13 immunity or franchise.

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

24 (1) replace or upgrade any existing high voltage
25 electric service line and related facilities,
26 notwithstanding its length;

1 (2) relocate any existing high voltage electric
2 service line and related facilities, notwithstanding its
3 length, to accommodate construction or expansion of a
4 roadway or other transportation infrastructure; or

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

13 (h) A public utility seeking to construct a high-voltage
14 electric service line and related facilities (Project) must
15 show that the utility has held a minimum of 2 pre-filing public
16 meetings to receive public comment concerning the Project in
17 each county where the Project is to be located, no earlier than
18 6 months prior to filing an application for a certificate of
19 public convenience and necessity from the Commission. Notice
20 of the public meeting shall be published in a newspaper of
21 general circulation within the affected county once a week for
22 3 consecutive weeks, beginning no earlier than one month prior
23 to the first public meeting. If the Project traverses 2
24 contiguous counties and where in one county the transmission
25 line mileage and number of landowners over whose property the
26 proposed route traverses is one-fifth or less of the

1 transmission line mileage and number of such landowners of the
2 other county, then the utility may combine the 2 pre-filing
3 meetings in the county with the greater transmission line
4 mileage and affected landowners. All other requirements
5 regarding pre-filing meetings shall apply in both counties.
6 Notice of the public meeting, including a description of the
7 Project, must be provided in writing to the clerk of each
8 county where the Project is to be located. A representative of
9 the Commission shall be invited to each pre-filing public
10 meeting.

11 (i) For applications filed after August 18, 2015 (the
12 effective date of Public Act 99-399), the Commission shall, by
13 certified mail, notify each owner of record of land, as
14 identified in the records of the relevant county tax assessor,
15 included in the right-of-way over which the utility seeks in
16 its application to construct a high-voltage electric line of
17 the time and place scheduled for the initial hearing on the
18 public utility's application. The utility shall reimburse the
19 Commission for the cost of the postage and supplies incurred
20 for mailing the notice.

21 (Source: P.A. 102-609, eff. 8-27-21; 102-662, eff. 9-15-21;
22 102-813, eff. 5-13-22; 102-931, eff. 5-27-22; 103-569, eff.
23 6-1-24.)