



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2162

Introduced 2/20/2009, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-406

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

Amends the Public Utilities Act. Deletes language that provides that no construction shall commence on any new nuclear power plant to be located within the State, and no certificate of public convenience and necessity or other authorization shall be issued therefor by the Illinois Commerce Commission, until the Director of the Illinois Environmental Protection Agency finds that the United States Government, through its authorized agency, has identified and approved a demonstrable technology or means for the disposal of high level nuclear waste, or until such construction has been specifically approved by a statute enacted by the General Assembly. Deletes the definition for "high level nuclear waste". Effective immediately.

LRB096 09997 MJR 20161 b

1 AN ACT concerning utilities.

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 Public
15 Utilities Commission, at the time this amendatory Act of 1985
16 goes into effect, shall transact any business in this State
17 until it shall have obtained a certificate from the Commission
18 that public convenience and necessity require the transaction
19 of such business.

20 (b) No public utility shall begin the construction of any
21 new plant, equipment, property or facility which is not in
22 substitution of any existing plant, equipment, property or
23 facility or any extension or alteration thereof or in addition

1 thereto, unless and until it shall have obtained from the
2 Commission a certificate that public convenience and necessity
3 require such construction. Whenever after a hearing the
4 Commission determines that any new construction or the
5 transaction of any business by a public utility will promote
6 the public convenience and is necessary thereto, it shall have
7 the power to issue certificates of public convenience and
8 necessity. The Commission shall determine that proposed
9 construction will promote the public convenience and necessity
10 only if the utility demonstrates: (1) that the proposed
11 construction is necessary to provide adequate, reliable, and
12 efficient service to its customers and is the least-cost means
13 of satisfying the service needs of its customers or that the
14 proposed construction will promote the development of an
15 effectively competitive electricity market that operates
16 efficiently, is equitable to all customers, and is the least
17 cost means of satisfying those objectives; (2) that the utility
18 is capable of efficiently managing and supervising the
19 construction process and has taken sufficient action to ensure
20 adequate and efficient construction and supervision thereof;
21 and (3) that the utility is capable of financing the proposed
22 construction without significant adverse financial
23 consequences for the utility or its customers.

24 (c) (Blank). ~~After the effective date of this amendatory~~
25 ~~Act of 1987, no construction shall commence on any new nuclear~~
26 ~~power plant to be located within this State, and no certificate~~

1 ~~of public convenience and necessity or other authorization~~
2 ~~shall be issued therefor by the Commission, until the Director~~
3 ~~of the Illinois Environmental Protection Agency finds that the~~
4 ~~United States Government, through its authorized agency, has~~
5 ~~identified and approved a demonstrable technology or means for~~
6 ~~the disposal of high level nuclear waste, or until such~~
7 ~~construction has been specifically approved by a statute~~
8 ~~enacted by the General Assembly.~~

9 ~~As used in this Section, "high level nuclear waste" means~~
10 ~~those aqueous wastes resulting from the operation of the first~~
11 ~~cycle of the solvent extraction system or equivalent and the~~
12 ~~concentrated wastes of the subsequent extraction cycles or~~
13 ~~equivalent in a facility for reprocessing irradiated reactor~~
14 ~~fuel and shall include spent fuel assemblies prior to fuel~~
15 ~~reprocessing.~~

16 (d) In making its determination, the Commission shall
17 attach primary weight to the cost or cost savings to the
18 customers of the utility. The Commission may consider any or
19 all factors which will or may affect such cost or cost savings.

20 (e) The Commission may issue a temporary certificate which
21 shall remain in force not to exceed one year in cases of
22 emergency, to assure maintenance of adequate service or to
23 serve particular customers, without notice or hearing, pending
24 the determination of an application for a certificate, and may
25 by regulation exempt from the requirements of this Section
26 temporary acts or operations for which the issuance of a

1 certificate will not be required in the public interest.

2 A public utility shall not be required to obtain but may
3 apply for and obtain a certificate of public convenience and
4 necessity pursuant to this Section with respect to any matter
5 as to which it has received the authorization or order of the
6 Commission under the Electric Supplier Act, and any such
7 authorization or order granted a public utility by the
8 Commission under that Act shall as between public utilities be
9 deemed to be, and shall have except as provided in that Act the
10 same force and effect as, a certificate of public convenience
11 and necessity issued pursuant to this Section.

12 No electric cooperative shall be made or shall become a
13 party to or shall be entitled to be heard or to otherwise
14 appear or participate in any proceeding initiated under this
15 Section for authorization of power plant construction and as to
16 matters as to which a remedy is available under The Electric
17 Supplier Act.

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

24 No certificate of public convenience and necessity shall be
25 construed as granting a monopoly or an exclusive privilege,
26 immunity or franchise.

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

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