



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5854

Introduced 2/16/2012, by Rep. Mike Fortner

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-406

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

Amends the Public Utilities Act. Provides that no construction shall commence on any new commercial scale nuclear power plants (rather than new nuclear power plants) that are to be located in the State, and no certificate of public convenience and necessity or other authorization shall be issued therefor by the Commission unless 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. Provides that the Illinois Commerce Commission may issue a certificate of public convenience and necessity and provide any other authorizations necessary to allow operating nuclear power plants to install pilot-scale projects and technologies. Effective immediately.

LRB097 20536 CEL 66101 b

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 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) No ~~After the effective date of this amendatory Act of~~
25 ~~1987, no~~ construction shall commence on any new commercial
26 scale nuclear power plant to be located within this State, and

1 no certificate of public convenience and necessity or other
2 authorization shall be issued therefor by the Commission, until
3 the Director of the Illinois Environmental Protection Agency
4 finds that the United States Government, through its authorized
5 agency, has identified and approved a demonstrable technology
6 or means for the disposal of high level nuclear waste, or until
7 such construction has been specifically approved by a statute
8 enacted by the General Assembly.

9 The Commission may issue a certificate of public
10 convenience and necessity and provide any other authorizations
11 necessary to allow operating nuclear power plants to install
12 pilot-scale projects and technologies.

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

20 (d) In making its determination, the Commission shall
21 attach primary weight to the cost or cost savings to the
22 customers of the utility. The Commission may consider any or
23 all factors which will or may affect such cost or cost savings,
24 including the public utility's engineering judgment regarding
25 the materials used for construction.

26 (e) The Commission may issue a temporary certificate which

1 shall remain in force not to exceed one year in cases of
2 emergency, to assure maintenance of adequate service or to
3 serve particular customers, without notice or hearing, pending
4 the determination of an application for a certificate, and may
5 by regulation exempt from the requirements of this Section
6 temporary acts or operations for which the issuance of a
7 certificate will not be required in the public interest.

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

18 No electric cooperative shall be made or shall become a
19 party to or shall be entitled to be heard or to otherwise
20 appear or participate in any proceeding initiated under this
21 Section for authorization of power plant construction and as to
22 matters as to which a remedy is available under The Electric
23 Supplier Act.

24 (f) Such certificates may be altered or modified by the
25 Commission, upon its own motion or upon application by the
26 person or corporation affected. Unless exercised within a

1 period of 2 years from the grant thereof authority conferred by
2 a certificate of convenience and necessity issued by the
3 Commission shall be null and void.

4 No certificate of public convenience and necessity shall be
5 construed as granting a monopoly or an exclusive privilege,
6 immunity or franchise.

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

17 (1) replace or upgrade any existing high voltage
18 electric service line and related facilities,
19 notwithstanding its length;

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

24 (3) construct a high voltage electric service line and
25 related facilities that is constructed solely to serve a
26 single customer's premises or to provide a generator

1 interconnection to the public utility's transmission
2 system and that will pass under or over the premises owned
3 by the customer or generator to be served or under or over
4 premises for which the customer or generator has secured
5 the necessary right of way.

6 (Source: P.A. 95-700, eff. 11-9-07; 96-1348, eff. 7-28-10.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.