

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 Sections 8-406, 8-406.1, and 8-510 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) After the effective date of this amendatory Act of  
25 1987, no construction shall commence on any new nuclear power  
26 plant to be located within this State, and no certificate of

1 public convenience and necessity or other authorization shall  
2 be issued therefor by the Commission, until the Director of the  
3 Illinois Environmental Protection Agency finds that the United  
4 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 including the public utility's engineering judgment regarding  
21 the materials used for construction.

22 (e) The Commission may issue a temporary certificate which  
23 shall remain in force not to exceed one year in cases of  
24 emergency, to assure maintenance of adequate service or to  
25 serve particular customers, without notice or hearing, pending  
26 the determination of an application for a certificate, and may

1 by regulation exempt from the requirements of this Section  
2 temporary acts or operations for which the issuance of a  
3 certificate will not be required in the public interest.

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

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

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

26 No certificate of public convenience and necessity shall be

1 construed as granting a monopoly or an exclusive privilege,  
2 immunity or franchise.

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

13 (1) replace or upgrade any existing high voltage  
14 electric service line and related facilities,  
15 notwithstanding its length;

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

20 (3) construct a high voltage electric service line and  
21 related facilities that is constructed solely to serve a  
22 single customer's premises or to provide a generator  
23 interconnection to the public utility's transmission  
24 system and that will pass under or over the premises owned  
25 by the customer or generator to be served or under or over  
26 premises for which the customer or generator has secured

1 the necessary right of way.

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

25 (i) For applications filed after the effective date of this  
26 amendatory Act of the 99th General Assembly, the Commission

1 shall by registered mail notify each owner of record of land,  
2 as identified in the records of the relevant county tax  
3 assessor, included in the right-of-way over which the utility  
4 seeks in its application to construct a high-voltage electric  
5 line of the time and place scheduled for the initial hearing on  
6 the public utility's application. The utility shall reimburse  
7 the Commission for the cost of the postage and supplies  
8 incurred for mailing the notice.

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

10 (220 ILCS 5/8-406.1)

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

13 (a) A public utility may apply for a certificate of public  
14 convenience and necessity pursuant to this Section for the  
15 construction of any new high voltage electric service line and  
16 related facilities (Project). 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.

24 (B) The following engineering data:

25 (i) a detailed Project description including:

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



1 of the general land uses in the area and the  
2 type of terrain crossed by the proposed line;

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

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

10 (II) the operating voltage and frequency;  
11 and

12 (III) conductor size and type and number  
13 of conductors per phase;

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

17 (I) the wind and ice loading design  
18 parameters;

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

22 (III) structure spacing with typical  
23 ruling and maximum spans;

24 (IV) conductor (phase) spacing; and

25 (V) the designed line-to-ground and  
26 conductor-side clearances;

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

4 (I) burial depth;

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

9 (III) cathodic protection scheme; and

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

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

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

25 (2) An application fee of \$100,000, which shall be paid  
26 into the Public Utility Fund at the time the Chief Clerk of

1 the Commission deems it complete and accepts the filing.

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

24 For applications filed after the effective date of this  
25 amendatory Act of the 99th General Assembly, the Commission  
26 shall by registered mail notify each owner of record of the

1 land, as identified in the records of the relevant county tax  
2 assessor, included in the primary or alternate rights-of-way  
3 identified in the utility's application of the time and place  
4 scheduled for the initial hearing upon the public utility's  
5 application. The utility shall reimburse the Commission for the  
6 cost of the postage and supplies incurred for mailing the  
7 notice.

8 (b) At the first status hearing the administrative law  
9 judge shall set a schedule for discovery that shall take into  
10 consideration the expedited nature of the proceeding.

11 (c) Nothing in this Section prohibits a utility from  
12 requesting, or the Commission from approving, protection of  
13 confidential or proprietary information under applicable law.  
14 The public utility may seek confidential protection of any of  
15 the information provided pursuant to this Section, subject to  
16 Commission approval.

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

20 (e) The public utility shall establish a dedicated website  
21 for the Project 3 weeks prior to the first public meeting and  
22 maintain the website until construction of the Project is  
23 complete. The website address shall be included in all public  
24 notices.

25 (f) The Commission shall, after notice and hearing, grant a  
26 certificate of public convenience and necessity filed in

1 accordance with the requirements of this Section if, based upon  
2 the application filed with the Commission and the evidentiary  
3 record, it finds the Project will promote the public  
4 convenience and necessity and that all of the following  
5 criteria are satisfied:

6 (1) That the Project is necessary to provide adequate,  
7 reliable, and efficient service to the public utility's  
8 customers and is the least-cost means of satisfying the  
9 service needs of the public utility's customers or that the  
10 Project will promote the development of an effectively  
11 competitive electricity market that operates efficiently,  
12 is equitable to all customers, and is the least cost means  
13 of satisfying those objectives.

14 (2) That the public utility is capable of efficiently  
15 managing and supervising the construction process and has  
16 taken sufficient action to ensure adequate and efficient  
17 construction and supervision of the construction.

18 (3) That the public utility is capable of financing the  
19 proposed construction without significant adverse  
20 financial consequences for the utility or its customers.

21 (g) The Commission shall issue its decision with findings  
22 of fact and conclusions of law granting or denying the  
23 application no later than 150 days after the application is  
24 filed. The Commission may extend the 150-day deadline upon  
25 notice by an additional 75 days if, on or before the 30th day  
26 after the filing of the application, the Commission finds that

1 good cause exists to extend the 150-day period.

2 (h) In the event the Commission grants a public utility's  
3 application for a certificate pursuant to this Section, the  
4 public utility shall pay a one-time construction fee to each  
5 county in which the Project is constructed within 30 days after  
6 the completion of construction. The construction fee shall be  
7 \$20,000 per mile of high voltage electric service line  
8 constructed in that county, or a proportionate fraction of that  
9 fee. The fee shall be in lieu of any permitting fees that  
10 otherwise would be imposed by a county. Counties receiving a  
11 payment under this subsection (h) may distribute all or  
12 portions of the fee to local taxing districts in that county.

13 (i) Notwithstanding any other provisions of this Act, a  
14 decision granting a certificate under this Section shall  
15 include an order pursuant to Section 8-503 of this Act  
16 authorizing or directing the construction of the high voltage  
17 electric service line and related facilities as approved by the  
18 Commission, in the manner and within the time specified in said  
19 order.

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

21 (220 ILCS 5/8-510) (from Ch. 111 2/3, par. 8-510)

22 Sec. 8-510. Land surveys and land use studies. For the  
23 purpose of making land surveys and land use studies, any public  
24 utility that has been granted a certificate of public  
25 convenience and necessity by, or received an order under

1 Section 8-503 or 8-406.1 of this Act from, the Commission may,  
2 30 days after providing written notice to the owner thereof by  
3 registered mail and after providing a second notice to the  
4 owner of record, as identified in the records of the relevant  
5 county tax assessor, by telephone or electronic mail or by  
6 registered mail in the event the property owner has not been  
7 notified by other means, at least 3 days, but not more than 15  
8 days, prior to the stated date in the notice, identifying the  
9 date when land surveys and land use studies will first begin on  
10 their property and informing the landowner that they or their  
11 agent may be present when the land surveys or land use studies  
12 occur, enter upon the property of any owner who has refused  
13 permission for entrance upon that property, but subject to  
14 responsibility for all damages which may be inflicted thereby.  
15 (Source: P.A. 96-1348, eff. 7-28-10.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.