



Sen. Chapin Rose

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1 AMENDMENT TO SENATE BILL 1726

2 AMENDMENT NO. _____. Amend Senate Bill 1726, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Utilities Act is amended by changing
6 Sections 8-406, 8-406.1, and 8-510 as follows:

7 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

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

10 (a) No public utility not owning any city or village
11 franchise nor engaged in performing any public service or in
12 furnishing any product or commodity within this State as of
13 July 1, 1921 and not possessing a certificate of public
14 convenience and necessity from the Illinois Commerce
15 Commission, the State Public Utilities Commission or the Public
16 Utilities Commission, at the time this amendatory Act of 1985

1 goes into effect, shall transact any business in this State
2 until it shall have obtained a certificate from the Commission
3 that public convenience and necessity require the transaction
4 of such business.

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

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

6 (c) After the effective date of this amendatory Act of
7 1987, no construction shall commence on any new nuclear power
8 plant to be located within this State, and no certificate of
9 public convenience and necessity or other authorization shall
10 be issued therefor by the Commission, until the Director of the
11 Illinois Environmental Protection Agency finds that the United
12 States Government, through its authorized agency, has
13 identified and approved a demonstrable technology or means for
14 the disposal of high level nuclear waste, or until such
15 construction has been specifically approved by a statute
16 enacted by the General Assembly.

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

24 (d) In making its determination, the Commission shall
25 attach primary weight to the cost or cost savings to the
26 customers of the utility. The Commission may consider any or

1 all factors which will or may affect such cost or cost savings,
2 including the public utility's engineering judgment regarding
3 the materials used for construction.

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

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

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

1 Supplier Act.

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

8 No certificate of public convenience and necessity shall be
9 construed as granting a monopoly or an exclusive privilege,
10 immunity or franchise.

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

21 (1) replace or upgrade any existing high voltage
22 electric service line and related facilities,
23 notwithstanding its length;

24 (2) relocate any existing high voltage electric
25 service line and related facilities, notwithstanding its
26 length, to accommodate construction or expansion of a

1 roadway or other transportation infrastructure; or

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

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

1 landowners. All other requirements regarding pre-filing
2 meetings shall apply in both counties. Notice of the public
3 meeting, including a description of the Project, must be
4 provided in writing to the clerk of each county where the
5 Project is to be located. A representative of the Commission
6 shall be invited to each pre-filing public meeting.

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

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

16 (220 ILCS 5/8-406.1)

17 Sec. 8-406.1. Certificate of public convenience and
18 necessity; expedited procedure.

19 (a) A public utility may apply for a certificate of public
20 convenience and necessity pursuant to this Section for the
21 construction of any new high voltage electric service line and
22 related facilities (Project). To facilitate the expedited
23 review process of an application filed pursuant to this
24 Section, an application shall include all of the following:

25 (1) Information in support of the application that

1 shall include the following:

2 (A) A detailed description of the Project,
3 including location maps and plot plans to scale showing
4 all major components.

5 (B) The following engineering data:

6 (i) a detailed Project description including:

7 (I) name and destination of the Project;

8 (II) design voltage rating (kV);

9 (III) operating voltage rating (kV); and

10 (IV) normal peak operating current rating;

11 (ii) a conductor, structures, and substations
12 description including:

13 (I) conductor size and type;

14 (II) type of structures;

15 (III) height of typical structures;

16 (IV) an explanation why these structures
17 were selected;

18 (V) dimensional drawings of the typical
19 structures to be used in the Project; and

20 (VI) a list of the names of all new (and
21 existing if applicable) substations or
22 switching stations that will be associated
23 with the proposed new high voltage electric
24 service line;

25 (iii) the location of the site and
26 right-of-way including:

1 (I) miles of right-of-way;
2 (II) miles of circuit;
3 (III) width of the right-of-way; and
4 (IV) a brief description of the area
5 traversed by the proposed high voltage
6 electric service line, including a description
7 of the general land uses in the area and the
8 type of terrain crossed by the proposed line;
9 (iv) assumptions, bases, formulae, and methods
10 used in the development and preparation of the
11 diagrams and accompanying data, and a technical
12 description providing the following information:

13 (I) number of circuits, with
14 identification as to whether the circuit is
15 overhead or underground;

16 (II) the operating voltage and frequency;
17 and

18 (III) conductor size and type and number
19 of conductors per phase;

20 (v) if the proposed interconnection is an
21 overhead line, the following additional
22 information also must be provided:

23 (I) the wind and ice loading design
24 parameters;

25 (II) a full description and drawing of a
26 typical supporting structure, including

1 strength specifications;

2 (III) structure spacing with typical
3 ruling and maximum spans;

4 (IV) conductor (phase) spacing; and

5 (V) the designed line-to-ground and
6 conductor-side clearances;

7 (vi) if an underground or underwater
8 interconnection is proposed, the following
9 additional information also must be provided:

10 (I) burial depth;

11 (II) type of cable and a description of any
12 required supporting equipment, such as
13 insulation medium pressurizing or forced
14 cooling;

15 (III) cathodic protection scheme; and

16 (IV) type of dielectric fluid and
17 safeguards used to limit potential spills in
18 waterways;

19 (vii) technical diagrams that provide
20 clarification of any item under this item (1)
21 should be included; and

22 (viii) applicant shall provide and identify a
23 primary right-of-way and one or more alternate
24 rights-of-way for the Project as part of the
25 filing. To the extent applicable, for each
26 right-of-way, an applicant shall provide the

1 information described in this subsection (a). Upon
2 a showing of good cause in its filing, an applicant
3 may be excused from providing and identifying
4 alternate rights-of-way.

5 (2) An application fee of \$100,000, which shall be paid
6 into the Public Utility Fund at the time the Chief Clerk of
7 the Commission deems it complete and accepts the filing.

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

1 the clerk of each county where the Project is to be
2 located. A representative of the Commission shall be
3 invited to each pre-filing public meeting.

4 The Commission shall by registered mail notify each owner
5 of record of the land, as identified in the records of the
6 relevant county tax assessor, included in the primary or
7 alternate rights-of-way identified in the utility's
8 application of the time and place scheduled for the initial
9 hearing upon the public utility's application. The utility
10 shall reimburse the Commission for the cost of the postage and
11 supplies incurred for mailing the notice.

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

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

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

24 (e) The public utility shall establish a dedicated website
25 for the Project 3 weeks prior to the first public meeting and
26 maintain the website until construction of the Project is

1 complete. The website address shall be included in all public
2 notices.

3 (f) The Commission shall, after notice and hearing, grant a
4 certificate of public convenience and necessity filed in
5 accordance with the requirements of this Section if, based upon
6 the application filed with the Commission and the evidentiary
7 record, it finds the Project will promote the public
8 convenience and necessity and that all of the following
9 criteria are satisfied:

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

18 (2) That the public utility is capable of efficiently
19 managing and supervising the construction process and has
20 taken sufficient action to ensure adequate and efficient
21 construction and supervision of the construction.

22 (3) That the public utility is capable of financing the
23 proposed construction without significant adverse
24 financial consequences for the utility or its customers.

25 (g) The Commission shall issue its decision with findings
26 of fact and conclusions of law granting or denying the

1 application no later than 150 days after the application is
2 filed. The Commission may extend the 150-day deadline upon
3 notice by an additional 75 days if, on or before the 30th day
4 after the filing of the application, the Commission finds that
5 good cause exists to extend the 150-day period.

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

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

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

25 (220 ILCS 5/8-510) (from Ch. 111 2/3, par. 8-510)

1 Sec. 8-510. Land surveys and land use studies. For the
2 purpose of making land surveys and land use studies, any public
3 utility that has been granted a certificate of public
4 convenience and necessity by, or received an order under
5 Section 8-503 or 8-406.1 of this Act from, the Commission may,
6 30 days after providing written notice to the owner thereof by
7 registered mail and after providing a second notice to the
8 owner of record, as identified in the records of the relevant
9 county tax assessor, by telephone or electronic mail or by
10 registered mail in the event the property owner has not been
11 notified by other means, at least 3 days, but not more than 15
12 days, prior to the stated date in the notice, identifying the
13 date when land surveys and land use studies will first begin on
14 their property and informing the landowner that they or their
15 agent may be present when the land surveys or land use studies
16 occur, enter upon the property of any owner who has refused
17 permission for entrance upon that property, but subject to
18 responsibility for all damages which may be inflicted thereby.

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

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."