



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2733

by Rep. Thomas Morrison

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-406 from Ch. 111 2/3, par. 8-406
220 ILCS 5/9-228 new
220 ILCS 5/9-235 new
220 ILCS 5/9-237 new

Amends the Public Utilities Act. Provides that the Illinois Commerce Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates, among other requirements, that for construction serving a discrete area, existing customers will not be required to subsidize the cost of new facilities in excess of any refundable or nonrefundable payments by customers to be served by the new facilities. Provides that if any gas public utility connects an applicant or applicants to its gas distribution system, any costs associated with investments in plant addition in excess of any refundable payment or nonrefundable payment shall be excluded from any cost-recovery mechanism that allocates the excess cost among existing customers. Provides that no later than 60 days after the effective date of this amendatory Act, the Commission shall initiate a docketed investigation reviewing each gas public utility tariff that provides for gas main extensions without additional charge to new customers in excess of the default extensions without charge, and provides for other requirements pertaining to the investigation process. Provides that no later than 60 days after the effective date of this amendatory Act, the Commission shall initiate a rulemaking proceeding providing for rules establishing a uniform method by which natural gas public utilities determine the value of any gas main extensions provided to new customers without additional charge.

LRB101 09214 JRG 54308 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 and by adding Sections 9-228, 9-235, and 9-237 as
6 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
17 goes into effect, shall transact any business in this State
18 until it shall have obtained a certificate from the Commission
19 that public convenience and necessity require the transaction
20 of such business.

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

1 facility or any extension or alteration thereof or in addition
2 thereto, unless and until it shall have obtained from the
3 Commission a certificate that public convenience and necessity
4 require such construction. Whenever after a hearing the
5 Commission determines that any new construction or the
6 transaction of any business by a public utility will promote
7 the public convenience and is necessary thereto, it shall have
8 the power to issue certificates of public convenience and
9 necessity. The Commission shall determine that proposed
10 construction will promote the public convenience and necessity
11 only if the utility demonstrates: (1) that the proposed
12 construction is necessary to provide adequate, reliable, and
13 efficient service to its customers and is the least-cost means
14 of satisfying the service needs of its customers or that the
15 proposed construction will promote the development of an
16 effectively competitive electricity market that operates
17 efficiently, is equitable to all customers, and is the least
18 cost means of satisfying those objectives; (2) that the utility
19 is capable of efficiently managing and supervising the
20 construction process and has taken sufficient action to ensure
21 adequate and efficient construction and supervision thereof;
22 ~~and~~ (3) that the utility is capable of financing the proposed
23 construction without significant adverse financial
24 consequences for the utility or its customers; and (4) that,
25 for construction serving a discrete area, existing customers
26 will not be required to subsidize the cost of new facilities in

1 excess of any refundable or nonrefundable payments by customers
2 to be served by the new facilities.

3 (c) After the effective date of this amendatory Act of
4 1987, no construction shall commence on any new nuclear power
5 plant to be located within this State, and no certificate of
6 public convenience and necessity or other authorization shall
7 be issued therefor by the Commission, until the Director of the
8 Illinois Environmental Protection Agency finds that the United
9 States Government, through its authorized agency, has
10 identified and approved a demonstrable technology or means for
11 the disposal of high level nuclear waste, or until such
12 construction has been specifically approved by a statute
13 enacted by the General Assembly.

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

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

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

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

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

25 (f) Such certificates may be altered or modified by the
26 Commission, upon its own motion or upon application by the

1 person or corporation affected. Unless exercised within a
2 period of 2 years from the grant thereof authority conferred by
3 a certificate of convenience and necessity issued by the
4 Commission shall be null and void.

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

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

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

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

25 (3) construct a high voltage electric service line and
26 related facilities that is constructed solely to serve a

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

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

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

4 (i) For applications filed after the effective date of this
5 amendatory Act of the 99th General Assembly, the Commission
6 shall by registered mail notify each owner of record of land,
7 as identified in the records of the relevant county tax
8 assessor, included in the right-of-way over which the utility
9 seeks in its application to construct a high-voltage electric
10 line of the time and place scheduled for the initial hearing on
11 the public utility's application. The utility shall reimburse
12 the Commission for the cost of the postage and supplies
13 incurred for mailing the notice.

14 (Source: P.A. 99-399, eff. 8-18-15.)

15 (220 ILCS 5/9-228 new)

16 Sec. 9-228. Consideration of gas main extension costs. If
17 any gas public utility connects an applicant or applicants to
18 its gas distribution system, any costs associated with
19 investments in plant addition in excess of any refundable
20 payment or nonrefundable payment, by the applicant or
21 applicants at the time of connection, shall be excluded from
22 any cost-recovery mechanism that allocates the excess cost
23 among existing customers.

24 (220 ILCS 5/9-235 new)

1 Sec. 9-235. Tariffed gas main extension provisions. No
2 later than 60 days after the effective date of this amendatory
3 Act of the 101st General Assembly, the Commission shall
4 initiate a docketed investigation reviewing each gas public
5 utility tariff that provides for gas main extensions without
6 additional charge to new customers in excess of the default
7 extensions without charge as specified in Part 501 of Title 83
8 of the Administrative Code. While the primary focus of the
9 investigations shall be to determine whether existing
10 customers are subsidizing the connection of new customers to
11 the gas distribution system, the Commission is not restricted
12 in consideration of other issues related to gas main
13 extensions. To the extent that subsidization by existing
14 customers is occurring, the Commission shall appropriately
15 modify or cancel the tariff to eliminate any future
16 subsidization. If the Commission modifies a gas utility's gas
17 main extension tariff, the utility shall either accept or
18 reject the modifications through an appropriate filing with the
19 Commission within 10 days after the Commission's order. If the
20 utility rejects the modifications, the Commission shall cancel
21 the tariffs, and the Commission's gas main extension rules
22 shall govern gas main extensions for that utility. During the
23 investigations under this Section, the relevant provisions of
24 the gas utility's gas main extension tariff are suspended and
25 the Commission's gas main extension rules govern until the
26 conclusion of the investigation.

1 (220 ILCS 5/9-237 new)

2 Sec. 9-237. Gas main extension rulemaking. No later than 60
3 days after the effective date of this amendatory Act of the
4 101st General Assembly, the Commission shall initiate a
5 rulemaking proceeding providing for rules establishing a
6 uniform method by which natural gas public utilities determine
7 the value of any gas main extensions provided to new customers
8 without additional charge.