



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3093

by Rep. Anna Moeller

SYNOPSIS AS INTRODUCED:

220 ILCS 5/3-127 new
220 ILCS 5/15-401

Amends the Public Utilities Act. In its determination of public convenience and necessity for a proposed pipeline or facility designed or intended to transport crude oil and any alternate locations for such proposed pipeline or facility, requires the Illinois Commerce Commission to consider any evidence presented by a party or other entity that participates in the proceeding regarding the impact of the proposed pipeline or facility on environmental externalities. Provides that "environmental externalities" means benefits or costs, generated as a by-product of an economic activity, that do not accrue to the parties involved in the activity and are benefits or costs that manifest themselves through changes in the physical or biological environment.

LRB101 09635 JRG 54733 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 15-401 and by adding Section 3-127 as follows:

6 (220 ILCS 5/3-127 new)

7 Sec. 3-127. Environmental externalities. "Environmental
8 externalities" means benefits or costs, generated as a
9 by-product of an economic activity, that do not accrue to the
10 parties involved in the activity and are benefits or costs that
11 manifest themselves through changes in the physical or
12 biological environment.

13 (220 ILCS 5/15-401)

14 Sec. 15-401. Licensing.

15 (a) No person shall operate as a common carrier by pipeline
16 unless the person possesses a certificate in good standing
17 authorizing it to operate as a common carrier by pipeline. No
18 person shall begin or continue construction of a pipeline or
19 other facility, other than the repair or replacement of an
20 existing pipeline or facility, for use in operations as a
21 common carrier by pipeline unless the person possesses a
22 certificate in good standing.

1 (b) Requirements for issuance. The Commission, after a
2 hearing, shall grant an application for a certificate
3 authorizing operations as a common carrier by pipeline, in
4 whole or in part, to the extent that it finds that the
5 application was properly filed; a public need for the service
6 exists; the applicant is fit, willing, and able to provide the
7 service in compliance with this Act, Commission regulations,
8 and orders; and the public convenience and necessity requires
9 issuance of the certificate. Evidence encompassing any of the
10 factors described in items (1) through (10) ~~(9)~~ of this
11 subsection (b) that is submitted by the applicant, any other
12 party, or the Commission's staff shall also be considered by
13 the Commission in determining whether a public need for the
14 service exists under either current or expected conditions. The
15 changes in this subsection (b) are intended to be confirmatory
16 of existing law.

17 In its determination of public convenience and necessity
18 for a proposed pipeline or facility designed or intended to
19 transport crude oil and any alternate locations for such
20 proposed pipeline or facility, the Commission shall consider,
21 but not be limited to, the following:

22 (1) any evidence presented by the Illinois
23 Environmental Protection Agency regarding the
24 environmental impact of the proposed pipeline or other
25 facility;

26 (2) any evidence presented by the Illinois Department

1 of Transportation regarding the impact of the proposed
2 pipeline or facility on traffic safety, road construction,
3 or other transportation issues;

4 (3) any evidence presented by the Department of Natural
5 Resources regarding the impact of the proposed pipeline or
6 facility on any conservation areas, forest preserves,
7 wildlife preserves, wetlands, or any other natural
8 resource;

9 (4) any evidence of the effect of the pipeline upon the
10 economy, infrastructure, and public safety presented by
11 local governmental units that will be affected by the
12 proposed pipeline or facility;

13 (5) any evidence of the effect of the pipeline upon
14 property values presented by property owners who will be
15 affected by the proposed pipeline or facility, provided
16 that the Commission need not hear evidence as to the actual
17 valuation of property such as that as would be presented to
18 and determined by the courts under the Eminent Domain Act;

19 (6) any evidence presented by the Department of
20 Commerce and Economic Opportunity regarding the current
21 and future local, State-wide, or regional economic effect,
22 direct or indirect, of the proposed pipeline or facility
23 including, but not limited to, property values, employment
24 rates, and residential and business development;

25 (7) any evidence addressing the factors described in
26 items (1) through (9) of this subsection (b) or other

1 relevant factors that is presented by any other State
2 agency, the applicant, a party, or other entity that
3 participates in the proceeding, including evidence
4 presented by the Commission's staff;

5 (8) any evidence presented by a State agency or unit of
6 State or local government as to the current and future
7 national, State-wide, or regional economic effects of the
8 proposed pipeline, direct or indirect, as they affect
9 residents or businesses in Illinois, including, but not
10 limited to, such impacts as the ability of manufacturers in
11 Illinois to meet public demand for related services and
12 products and to compete in the national and regional
13 economies, improved access of suppliers to regional and
14 national shipping grids, the ability of the State to access
15 funds made available for energy infrastructure by the
16 federal government, mitigation of foreseeable spikes in
17 price affecting Illinois residents or businesses due to
18 sudden changes in supply or transportation capacity, and
19 the likelihood that the proposed construction will
20 substantially encourage related investment in the State's
21 energy infrastructure and the creation of energy related
22 jobs; ~~and~~

23 (9) any evidence presented by any State or federal
24 governmental entity as to how the proposed pipeline or
25 facility will affect the security, stability, and
26 reliability of energy in the State or in the region; and-

1 (10) any evidence presented by a party or other entity
2 that participates in the proceeding regarding the impact of
3 the proposed pipeline or facility on environmental
4 externalities.

5 In its written order, the Commission shall address all of
6 the evidence presented, and if the order is contrary to any of
7 the evidence, the Commission shall state the reasons for its
8 determination with regard to that evidence.

9 (c) An application filed pursuant to this Section may
10 request either that the Commission review and approve a
11 specific route for a pipeline, or that the Commission review
12 and approve a project route width that identifies the areas in
13 which the pipeline would be located, with such width ranging
14 from the minimum width required for a pipeline right-of-way up
15 to 500 feet in width. The purpose for allowing the option of
16 review and approval of a project route width is to provide
17 increased flexibility during the construction process to
18 accommodate specific landowner requests, avoid environmentally
19 sensitive areas, or address special environmental permitting
20 requirements.

21 (d) A common carrier by pipeline may request any other
22 approvals as may be needed from the Commission for completion
23 of the pipeline under Article VIII or any other Article or
24 Section of this Act at the same time, and as part of the same
25 application, as its request for a certificate of good standing
26 under this Section. The Commission's rules shall ensure that

1 notice of such a consolidated application is provided within 30
2 days after filing to the landowners along a proposed project
3 route, or to the potentially affected landowners within a
4 proposed project route width, using the notification
5 procedures set forth in the Commission's rules. If a
6 consolidated application is submitted, then the requests shall
7 be heard on a consolidated basis and a decision on all issues
8 shall be entered within the time frames stated in subsection
9 (e) of this Section. In such a consolidated proceeding, the
10 Commission may consider evidence relating to the same factors
11 identified in items (1) through (9) of subsection (b) of this
12 Section in granting authority under Section 8-503 of this Act.
13 If the Commission grants approval of a project route width as
14 opposed to a specific project route, then the common carrier by
15 pipeline must, as it finalizes the actual pipeline alignment
16 within the project route width, file its final list of affected
17 landowners with the Commission at least 14 days in advance of
18 beginning construction on any tract within the project route
19 width and also provide the Commission with at least 14 days
20 notice before filing a complaint for eminent domain in the
21 circuit court with regard to any tract within the project route
22 width.

23 (e) The Commission shall make its determination on any
24 application filed pursuant to this Section and issue its final
25 order within one year after the date that the application is
26 filed unless an extension is granted as provided in this

1 subsection (e). The Commission may extend the one-year time
2 period for issuing a final order on an application filed
3 pursuant to this Section up to an additional 6 months if it
4 finds, following the filing of initial testimony by the parties
5 to the proceeding, that due to the number of affected
6 landowners and other parties in the proceeding and the
7 complexity of the contested issues before it, additional time
8 is needed to ensure a complete review of the evidence. If an
9 extension is granted, then the schedule for the proceeding
10 shall not be further extended beyond this 6-month period, and
11 the Commission shall issue its final order within the 6-month
12 extension period. The Commission shall also have the power to
13 establish an expedited schedule for making its determination on
14 an application filed pursuant to this Section in less than one
15 year if it finds that the public interest requires the setting
16 of such an expedited schedule.

17 (f) Within 6 months after the Commission's entry of an
18 order approving either a specific route or a project route
19 width under this Section, the common carrier by pipeline that
20 receives such order may file supplemental applications for
21 minor route deviations outside the approved project route
22 width, allowing for additions or changes to the approved route
23 to address environmental concerns encountered during
24 construction or to accommodate landowner requests. Notice of a
25 supplemental application shall be provided to any State agency
26 that appeared in the original proceeding or immediately

1 affected landowner at the time such supplemental application is
2 filed. The route deviations shall be approved by the Commission
3 within 45 days, unless a written objection is filed to the
4 supplemental application within 20 days after the date such
5 supplemental application is filed. Hearings on any such
6 supplemental application shall be limited to the
7 reasonableness of the specific variance proposed, and the
8 issues of public need or public convenience or necessity for
9 the project or fitness of the applicant shall not be reopened
10 in the supplemental proceeding.

11 (g) The rules of the Commission may include additional
12 options for expediting the issuance of permits and certificates
13 under this Section. Such rules may provide that, in the event
14 that an applicant elects to use an option provided for in such
15 rules; (1) the applicant must request the use of the expedited
16 process at the time of filing its application for a license or
17 permit with the Commission; (2) the Commission may engage
18 experts and procure additional administrative resources that
19 are reasonably necessary for implementing the expedited
20 process; and (3) the applicant must bear any additional costs
21 incurred by the Commission as a result of the applicant's use
22 of such expedited process.

23 (h) Duties and obligations of common carriers by pipeline.
24 Each common carrier by pipeline shall provide adequate service
25 to the public at reasonable rates and without discrimination.

26 (Source: P.A. 97-405, eff. 8-16-11.)