



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

**HB4727**

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.

LRB100 18737 SMS 33971 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 100th 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 100th 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.