



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB0777

Introduced 2/1/2017, by Sen. Dale A. Righter

#### SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-406.1

220 ILCS 5/8-509

from Ch. 111 2/3, par. 8-509

Amends the Public Utilities Act. Modifies the requirements for an application for a certificate of public convenience and necessity for the construction of new high voltage electric service lines and related facilities (Project). Provides that an applicant must provide and identify a proposed primary right-of-way and one or more alternate rights-of-way for the Project at the first public meeting held in each county. Requires that the public be provided the opportunity to comment on the proposed primary and alternate rights-of-way. Requires notice of the time and place scheduled for the public meeting to be provided by registered mail to each owner of record of land included in the proposed primary and alternate rights-of-way over which the utility seeks to construct a high-voltage electric line. Provides that for applications filed after the effective date of this amendatory Act, certificates granted for Projects that will impact agricultural land shall be conditioned on the applicant adhering to an agricultural impact mitigation agreement that he or she has entered into with the Department of Agriculture that outlines the mitigative actions the applicant will take to preserve the integrity of agricultural land impacted by the Project. Provides that if a public utility seeks relief to exercise eminent domain power to make necessary alterations, additions, extensions, or improvements ordered or authorized under certain specified Sections after the Commission enters its order in a proceeding for a certificate of public convenience and necessity for a Project, the Commission shall issue its order within 180 (rather than 45) days after the utility files its petition seeking relief. Effective immediately.

LRB100 05482 RJF 15493 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 Sections 8-406.1 and 8-509 as follows:

6 (220 ILCS 5/8-406.1)

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

9 (a) A public utility may apply for a certificate of public  
10 convenience and necessity pursuant to this Section for the  
11 construction of any new high voltage electric service line and  
12 related facilities (Project). To facilitate the expedited  
13 review process of an application filed pursuant to this  
14 Section, an application shall include all of the following:

15 (1) Information in support of the application that  
16 shall include the following:

17 (A) A detailed description of the Project,  
18 including location maps and plot plans to scale showing  
19 all major components.

20 (B) The following engineering data:

21 (i) a detailed Project description including:

22 (I) name and destination of the Project;

23 (II) design voltage rating (kV);

1 (III) operating voltage rating (kV); and  
2 (IV) normal peak operating current rating;  
3 (ii) a conductor, structures, and substations  
4 description including:

5 (I) conductor size and type;

6 (II) type of structures;

7 (III) height of typical structures;

8 (IV) an explanation why these structures  
9 were selected;

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

12 (VI) a list of the names of all new (and  
13 existing if applicable) substations or  
14 switching stations that will be associated  
15 with the proposed new high voltage electric  
16 service line;

17 (iii) the location of the site and  
18 right-of-way including:

19 (I) miles of right-of-way;

20 (II) miles of circuit;

21 (III) width of the right-of-way; and

22 (IV) a brief description of the area  
23 traversed by the proposed high voltage  
24 electric service line, including a description  
25 of the general land uses in the area and the  
26 type of terrain crossed by the proposed line;

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

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

8 (II) the operating voltage and frequency;  
9 and

10 (III) conductor size and type and number  
11 of conductors per phase;

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

15 (I) the wind and ice loading design  
16 parameters;

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

20 (III) structure spacing with typical  
21 ruling and maximum spans;

22 (IV) conductor (phase) spacing; and

23 (V) the designed line-to-ground and  
24 conductor-side clearances;

25 (vi) if an underground or underwater  
26 interconnection is proposed, the following

1 additional information also must be provided:

2 (I) burial depth;

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

7 (III) cathodic protection scheme; and

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

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

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

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

26 (3) A complete record of ~~Information showing that the~~

1 ~~utility has held~~ a minimum of 3 pre-filing public meetings  
2 to receive public comment concerning the Project in each  
3 county where the Project is to be located, no earlier than  
4 6 months prior to the filing of the application. The  
5 applicant must provide and identify a proposed primary  
6 right-of-way and one or more alternate rights-of-way for  
7 the Project at the first public meeting held in each  
8 county. The public shall be provided the opportunity to  
9 comment on the proposed primary and alternate  
10 rights-of-way. Notice of the public meeting shall be  
11 published in a newspaper of general circulation within the  
12 affected county once a week for 3 consecutive weeks,  
13 beginning no earlier than one month prior to the first  
14 public meeting. Notice of the time and place scheduled for  
15 the public meeting must also be provided by registered mail  
16 to each owner of record of land, as identified in the  
17 records of the relevant county tax assessor, included in  
18 the proposed primary and alternate rights-of-way over  
19 which the utility seeks to construct a high-voltage  
20 electric line. If the Project traverses 2 contiguous  
21 counties and where in one county the transmission line  
22 mileage and number of landowners over whose property the  
23 proposed route traverses is 1/5 or less of the transmission  
24 line mileage and number of such landowners of the other  
25 county, then the utility may combine the 3 pre-filing  
26 meetings in the county with the greater transmission line

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

8           For applications filed after the effective date of this  
9           amendatory Act of the 99th General Assembly, the Commission  
10          shall by registered mail notify each owner of record of the  
11          land, as identified in the records of the relevant county tax  
12          assessor, included in the primary or alternate rights-of-way  
13          identified in the utility's application of the time and place  
14          scheduled for the initial hearing upon the public utility's  
15          application. The utility shall reimburse the Commission for the  
16          cost of the postage and supplies incurred for mailing the  
17          notice.

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

21          (c) Nothing in this Section prohibits a utility from  
22          requesting, or the Commission from approving, protection of  
23          confidential or proprietary information under applicable law.  
24          The public utility may seek confidential protection of any of  
25          the information provided pursuant to this Section, subject to  
26          Commission approval.

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

4           (e) The public utility shall establish a dedicated website  
5 for the Project 3 weeks prior to the first public meeting and  
6 maintain the website until construction of the Project is  
7 complete. The website address shall be included in all public  
8 notices.

9           (f) The Commission shall, after notice and hearing, grant a  
10 certificate of public convenience and necessity filed in  
11 accordance with the requirements of this Section if, based upon  
12 the application filed with the Commission and the evidentiary  
13 record, it finds the Project will promote the public  
14 convenience and necessity and that all of the following  
15 criteria are satisfied:

16           (1) That the Project is necessary to provide adequate,  
17 reliable, and efficient service to the public utility's  
18 customers and is the least-cost means of satisfying the  
19 service needs of the public utility's customers or that the  
20 Project will promote the development of an effectively  
21 competitive electricity market that operates efficiently,  
22 is equitable to all customers, and is the least cost means  
23 of satisfying those objectives.

24           (2) That the public utility is capable of efficiently  
25 managing and supervising the construction process and has  
26 taken sufficient action to ensure adequate and efficient



1 construction and supervision of the construction.

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

5 (g) The Commission shall issue its decision with findings  
6 of fact and conclusions of law granting or denying the  
7 application no later than 150 days after the application is  
8 filed. The Commission may extend the 150-day deadline upon  
9 notice by an additional 75 days if, on or before the 30th day  
10 after the filing of the application, the Commission finds that  
11 good cause exists to extend the 150-day period.

12 (h) In the event the Commission grants a public utility's  
13 application for a certificate pursuant to this Section, the  
14 public utility shall pay a one-time construction fee to each  
15 county in which the Project is constructed within 30 days after  
16 the completion of construction. The construction fee shall be  
17 \$20,000 per mile of high voltage electric service line  
18 constructed in that county, or a proportionate fraction of that  
19 fee. The fee shall be in lieu of any permitting fees that  
20 otherwise would be imposed by a county. Counties receiving a  
21 payment under this subsection (h) may distribute all or  
22 portions of the fee to local taxing districts in that county.

23 (i) Notwithstanding any other provisions of this Act, a  
24 decision granting a certificate under this Section shall  
25 include an order pursuant to Section 8-503 of this Act  
26 authorizing or directing the construction of the high voltage

1 electric service line and related facilities as approved by the  
2 Commission, in the manner and within the time specified in said  
3 order.

4 (j) For applications filed after the effective date of this  
5 amendatory Act of the 100th General Assembly, certificates  
6 granted under this Section for Projects that will impact  
7 agricultural land shall be conditioned on the applicant  
8 adhering to an agricultural impact mitigation agreement that he  
9 or she has entered into with the Department of Agriculture that  
10 outlines the mitigative actions the applicant will take to  
11 preserve the integrity of agricultural land impacted by the  
12 Project.

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

14 (220 ILCS 5/8-509) (from Ch. 111 2/3, par. 8-509)

15 Sec. 8-509. When necessary for the construction of any  
16 alterations, additions, extensions or improvements ordered or  
17 authorized under Section 8-406.1, 8-503, or 12-218 of this Act,  
18 any public utility may enter upon, take or damage private  
19 property in the manner provided for by the law of eminent  
20 domain. If a public utility seeks relief under this Section in  
21 the same proceeding in which it seeks a certificate of public  
22 convenience and necessity under Section 8-406.1 of this Act,  
23 the Commission shall enter its order under this Section either  
24 as part of the Section 8-406.1 order or at the same time it  
25 enters the Section 8-406.1 order. If a public utility seeks

1 relief under this Section after the Commission enters its order  
2 in the Section 8-406.1 proceeding, the Commission shall issue  
3 its order under this Section within 180 ~~45~~ days after the  
4 utility files its petition under this Section.

5 This Section applies to the exercise of eminent domain  
6 powers by telephone companies or telecommunications carriers  
7 only when the facilities to be constructed are intended to be  
8 used in whole or in part for providing one or more intrastate  
9 telecommunications services classified as "noncompetitive"  
10 under Section 13-502 in a tariff filed by the condemnor. The  
11 exercise of eminent domain powers by telephone companies or  
12 telecommunications carriers in all other cases shall be  
13 governed solely by "An Act relating to the powers, duties and  
14 property of telephone companies", approved May 16, 1903, as now  
15 or hereafter amended.

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

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