

1 AN ACT concerning utilities.

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, 8-509, and 8-510 and by adding Section 8-406.1  
6 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  
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.

25 (c) After the effective date of this amendatory Act of  
26 1987, no construction shall commence on any new nuclear power

1 plant to be located within this State, and no certificate of  
2 public convenience and necessity or other authorization shall  
3 be issued therefor by the Commission, until the Director of the  
4 Illinois Environmental Protection Agency finds that the United  
5 States Government, through its authorized agency, has  
6 identified and approved a demonstrable technology or means for  
7 the disposal of high level nuclear waste, or until such  
8 construction has been specifically approved by a statute  
9 enacted by the General Assembly.

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

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

23 (e) The Commission may issue a temporary certificate which  
24 shall remain in force not to exceed one year in cases of  
25 emergency, to assure maintenance of adequate service or to  
26 serve particular customers, without notice or hearing, pending

1 the determination of an application for a certificate, and may  
2 by regulation exempt from the requirements of this Section  
3 temporary acts or operations for which the issuance of a  
4 certificate will not be required in the public interest.

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

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

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

1 No certificate of public convenience and necessity shall be  
2 construed as granting a monopoly or an exclusive privilege,  
3 immunity or franchise.

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

14 (1) replace or upgrade any existing high voltage  
15 electric service line and related facilities,  
16 notwithstanding its length;

17 (2) relocate any existing high voltage electric  
18 service line and related facilities, notwithstanding its  
19 length, to accommodate construction or expansion of a  
20 roadway or other transportation infrastructure; or

21 (3) construct a high voltage electric service line and  
22 related facilities that is constructed solely to serve a  
23 single customer's premises or to provide a generator  
24 interconnection to the public utility's transmission  
25 system and that will pass under or over the premises owned  
26 by the customer or generator to be served or under or over

1 premises for which the customer or generator has secured  
2 the necessary right of way.

3 (Source: P.A. 95-700, eff. 11-9-07.)

4 (220 ILCS 5/8-406.1 new)

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

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

13 (1) Information in support of the application that  
14 shall include the following:

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

18 (B) The following engineering data:

19 (i) a detailed Project description including:

20 (I) name and destination of the Project;

21 (II) design voltage rating (kV);

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

23 (IV) normal peak operating current rating;

24 (ii) a conductor, structures, and substations  
25 description including:

- 1                   (I) conductor size and type;  
2                   (II) type of structures;  
3                   (III) height of typical structures;  
4                   (IV) an explanation why these structures  
5 were selected;  
6                   (V) dimensional drawings of the typical  
7 structures to be used in the Project; and  
8                   (VI) a list of the names of all new (and  
9 existing if applicable) substations or  
10 switching stations that will be associated  
11 with the proposed new high voltage electric  
12 service line;  
13                   (iii) the location of the site and  
14 right-of-way including:  
15                   (I) miles of right-of-way;  
16                   (II) miles of circuit;  
17                   (III) width of the right-of-way; and  
18                   (IV) a brief description of the area  
19 traversed by the proposed high voltage  
20 electric service line, including a description  
21 of the general land uses in the area and the  
22 type of terrain crossed by the proposed line;  
23                   (iv) assumptions, bases, formulae, and methods  
24 used in the development and preparation of the  
25 diagrams and accompanying data, and a technical  
26 description providing the following information:

1                   (I) number of circuits, with  
2                   identification as to whether the circuit is  
3                   overhead or underground;

4                   (II) the operating voltage and frequency;  
5                   and

6                   (III) conductor size and type and number  
7                   of conductors per phase;

8                   (v) if the proposed interconnection is an  
9                   overhead line, the following additional  
10                   information also must be provided:

11                   (I) the wind and ice loading design  
12                   parameters;

13                   (II) a full description and drawing of a  
14                   typical supporting structure, including  
15                   strength specifications;

16                   (III) structure spacing with typical  
17                   ruling and maximum spans;

18                   (IV) conductor (phase) spacing; and

19                   (V) the designed line-to-ground and  
20                   conductor-side clearances;

21                   (vi) if an underground or underwater  
22                   interconnection is proposed, the following  
23                   additional information also must be provided:

24                   (I) burial depth;

25                   (II) type of cable and a description of any  
26                   required supporting equipment, such as



1 insulation medium pressurizing or forced  
2 cooling;

3 (III) cathodic protection scheme; and

4 (IV) type of dielectric fluid and  
5 safeguards used to limit potential spills in  
6 waterways;

7 (vii) technical diagrams that provide  
8 clarification of any item under this item (1)  
9 should be included; and

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

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

22 (3) Information showing that the utility has held a  
23 minimum of 3 pre-filing public meetings to receive public  
24 comment concerning the Project in each county where the  
25 Project is to be located, no earlier than 6 months prior to  
26 the filing of the application. Notice of the public meeting

1 shall be published in a newspaper of general circulation  
2 within the affected county once a week for 3 consecutive  
3 weeks, beginning no earlier than one month prior to the  
4 first public meeting. If the Project traverses 2 contiguous  
5 counties and where in one county the transmission line  
6 mileage and number of landowners over whose property the  
7 proposed route traverses is 1/5 or less of the transmission  
8 line mileage and number of such landowners of the other  
9 county, then the utility may combine the 3 pre-filing  
10 meetings in the county with the greater transmission line  
11 mileage and affected landowners. All other requirements  
12 regarding pre-filing meetings shall apply in both  
13 counties. Notice of the public meeting, including a  
14 description of the Project, must be provided in writing to  
15 the clerk of each county where the Project is to be  
16 located. A representative of the Commission shall be  
17 invited to each pre-filing public meeting.

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

5 Sec. 8-509. When necessary for the construction of any  
6 alterations, additions, extensions or improvements ordered or  
7 authorized under Section 8-406.1, 8-503, or 12-218 of this Act,  
8 any public utility may enter upon, take or damage private  
9 property in the manner provided for by the law of eminent  
10 domain. If a public utility seeks relief under this Section in  
11 the same proceeding in which it seeks a certificate of public  
12 convenience and necessity under Section 8-406.1 of this Act,  
13 the Commission shall enter its order under this Section either  
14 as part of the Section 8-406.1 order or at the same time it  
15 enters the Section 8-406.1 order. If a public utility seeks  
16 relief under this Section after the Commission enters its order  
17 in the Section 8-406.1 proceeding, the Commission shall issue  
18 its order under this Section within 45 days after the utility  
19 files its petition under this Section.

20 This Section applies to the exercise of eminent domain  
21 powers by telephone companies or telecommunications carriers  
22 only when the facilities to be constructed are intended to be  
23 used in whole or in part for providing one or more intrastate  
24 telecommunications services classified as "noncompetitive"  
25 under Section 13-502 in a tariff filed by the condemnor. The

1 exercise of eminent domain powers by telephone companies or  
2 telecommunications carriers in all other cases shall be  
3 governed solely by "An Act relating to the powers, duties and  
4 property of telephone companies", approved May 16, 1903, as now  
5 or hereafter amended.

6 (Source: P.A. 86-221.)

7 (220 ILCS 5/8-510) (from Ch. 111 2/3, par. 8-510)

8 Sec. 8-510. Land surveys and land use studies. For the  
9 purpose of making land surveys and land use studies, any public  
10 utility that has been granted a certificate of public  
11 convenience and necessity by, or received an order under  
12 Section 8-503 or 8-406.1 of this Act from, the Commission may,  
13 30 days after providing written notice to the owner thereof by  
14 registered mail, enter upon the property of any owner who has  
15 refused permission for entrance upon that property, but subject  
16 to responsibility for all damages which may be inflicted  
17 thereby.

18 (Source: P.A. 90-561, eff. 12-16-97.)

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