



Sen. William R. Haine

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09600SB2485sam002

LRB096 14944 AMC 39723 a

1 AMENDMENT TO SENATE BILL 2485

2 AMENDMENT NO. _____. Amend Senate Bill 2485, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Utilities Act is amended by changing
6 Sections 8-406, 8-509, and 8-510 and by adding Section 8-406.1
7 as follows:

8 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

9 Sec. 8-406. Certificate of public convenience and
10 necessity.

11 (a) No public utility not owning any city or village
12 franchise nor engaged in performing any public service or in
13 furnishing any product or commodity within this State as of
14 July 1, 1921 and not possessing a certificate of public
15 convenience and necessity from the Illinois Commerce
16 Commission, the State Public Utilities Commission or the Public

1 Utilities Commission, at the time this amendatory Act of 1985
2 goes into effect, shall transact any business in this State
3 until it shall have obtained a certificate from the Commission
4 that public convenience and necessity require the transaction
5 of such business.

6 (b) No public utility shall begin the construction of any
7 new plant, equipment, property or facility which is not in
8 substitution of any existing plant, equipment, property or
9 facility or any extension or alteration thereof or in addition
10 thereto, unless and until it shall have obtained from the
11 Commission a certificate that public convenience and necessity
12 require such construction. Whenever after a hearing the
13 Commission determines that any new construction or the
14 transaction of any business by a public utility will promote
15 the public convenience and is necessary thereto, it shall have
16 the power to issue certificates of public convenience and
17 necessity. The Commission shall determine that proposed
18 construction will promote the public convenience and necessity
19 only if the utility demonstrates: (1) that the proposed
20 construction is necessary to provide adequate, reliable, and
21 efficient service to its customers and is the least-cost means
22 of satisfying the service needs of its customers or that the
23 proposed construction will promote the development of an
24 effectively competitive electricity market that operates
25 efficiently, is equitable to all customers, and is the least
26 cost means of satisfying those objectives; (2) that the utility

1 is capable of efficiently managing and supervising the
2 construction process and has taken sufficient action to ensure
3 adequate and efficient construction and supervision thereof;
4 and (3) that the utility is capable of financing the proposed
5 construction without significant adverse financial
6 consequences for the utility or its customers.

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

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

25 (d) In making its determination, the Commission shall
26 attach primary weight to the cost or cost savings to the

1 customers of the utility. The Commission may consider any or
2 all factors which will or may affect such cost or cost savings,
3 including the public utility's engineering judgment regarding
4 the materials used for construction.

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

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

23 No electric cooperative shall be made or shall become a
24 party to or shall be entitled to be heard or to otherwise
25 appear or participate in any proceeding initiated under this
26 Section for authorization of power plant construction and as to

1 matters as to which a remedy is available under The Electric
2 Supplier Act.

3 (f) Such certificates may be altered or modified by the
4 Commission, upon its own motion or upon application by the
5 person or corporation affected. Unless exercised within a
6 period of 2 years from the grant thereof authority conferred by
7 a certificate of convenience and necessity issued by the
8 Commission shall be null and void.

9 No certificate of public convenience and necessity shall be
10 construed as granting a monopoly or an exclusive privilege,
11 immunity or franchise.

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

22 (1) replace or upgrade any existing high voltage
23 electric service line and related facilities,
24 notwithstanding its length;

25 (2) relocate any existing high voltage electric
26 service line and related facilities, notwithstanding its

1 length, to accommodate construction or expansion of a
2 roadway or other transportation infrastructure; or

3 (3) construct a high voltage electric service line and
4 related facilities that is constructed solely to serve a
5 single customer's premises or to provide a generator
6 interconnection to the public utility's transmission
7 system and that will pass under or over the premises owned
8 by the customer or generator to be served or under or over
9 premises for which the customer or generator has secured
10 the necessary right of way.

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

12 (220 ILCS 5/8-406.1 new)

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

15 (a) A public utility may apply for a certificate of public
16 convenience and necessity pursuant to this Section for the
17 construction of any new high voltage electric service line and
18 related facilities (Project). To facilitate the expedited
19 review process of an application filed pursuant to this
20 Section, an application shall include all of the following:

21 (1) Information in support of the application that
22 shall include the following:

23 (A) A detailed description of the Project,
24 including location maps and plot plans to scale showing
25 all major components.

1 (B) The following engineering data:

2 (i) a detailed Project description including:

3 (I) name and destination of the Project;

4 (II) design voltage rating (kV);

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

6 (IV) normal peak operating current rating;

7 (ii) a conductor, structures, and substations
8 description including:

9 (I) conductor size and type;

10 (II) type of structures;

11 (III) height of typical structures;

12 (IV) an explanation why these structures
13 were selected;

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

16 (VI) a list of the names of all new (and
17 existing if applicable) substations or
18 switching stations that will be associated
19 with the proposed new high voltage electric
20 service line;

21 (iii) the location of the site and
22 right-of-way including:

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

24 (II) miles of circuit;

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

26 (IV) a brief description of the area

1 traversed by the proposed high voltage
2 electric service line, including a description
3 of the general land uses in the area and the
4 type of terrain crossed by the proposed line;
5 (iv) assumptions, bases, formulae, and methods
6 used in the development and preparation of the
7 diagrams and accompanying data, and a technical
8 description providing the following information:

9 (I) number of circuits, with
10 identification as to whether the circuit is
11 overhead or underground;

12 (II) the operating voltage and frequency;

13 and

14 (III) conductor size and type and number
15 of conductors per phase;

16 (v) if the proposed interconnection is an
17 overhead line, the following additional
18 information also must be provided:

19 (I) the wind and ice loading design
20 parameters;

21 (II) a full description and drawing of a
22 typical supporting structure, including
23 strength specifications;

24 (III) structure spacing with typical
25 ruling and maximum spans;

26 (IV) conductor (phase) spacing; and

1 (V) the designed line-to-ground and
2 conductor-side clearances;

3 (vi) if an underground or underwater
4 interconnection is proposed, the following
5 additional information also must be provided:

6 (I) burial depth;

7 (II) type of cable and a description of any
8 required supporting equipment, such as
9 insulation medium pressurizing or forced
10 cooling;

11 (III) cathodic protection scheme; and

12 (IV) type of dielectric fluid and
13 safeguards used to limit potential spills in
14 waterways;

15 (vii) technical diagrams that provide
16 clarification of any item under this item (1)
17 should be included; and

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

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

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

26 (b) At the first status hearing the administrative law

1 judge shall set a schedule for discovery that shall take into
2 consideration the expedited nature of the proceeding.

3 (c) Nothing in this Section prohibits a utility from
4 requesting, or the Commission from approving, protection of
5 confidential or proprietary information under applicable law.
6 The public utility may seek confidential protection of any of
7 the information provided pursuant to this Section, subject to
8 Commission approval.

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

12 (e) The public utility shall establish a dedicated website
13 for the Project 3 weeks prior to the first public meeting and
14 maintain the website until construction of the Project is
15 complete. The website address shall be included in all public
16 notices.

17 (f) The Commission shall, after notice and hearing, grant a
18 certificate of public convenience and necessity filed in
19 accordance with the requirements of this Section if, based upon
20 the application filed with the Commission and the evidentiary
21 record, it finds the Project will promote the public
22 convenience and necessity and that all of the following
23 criteria are satisfied:

24 (1) That the Project is necessary to provide adequate,
25 reliable, and efficient service to the public utility's
26 customers and is the least-cost means of satisfying the

1 service needs of the public utility's customers or that the
2 Project will promote the development of an effectively
3 competitive electricity market that operates efficiently,
4 is equitable to all customers, and is the least cost means
5 of satisfying those objectives.

6 (2) That the public utility is capable of efficiently
7 managing and supervising the construction process and has
8 taken sufficient action to ensure adequate and efficient
9 construction and supervision of the construction.

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

13 (g) The Commission shall issue its decision with findings
14 of fact and conclusions of law granting or denying the
15 application no later than 150 days after the application is
16 filed. The Commission may extend the 150-day deadline upon
17 notice by an additional 75 days if, on or before the 30th day
18 after the filing of the application, the Commission finds that
19 good cause exists to extend the 150-day period.

20 (h) In the event the Commission grants a public utility's
21 application for a certificate pursuant to this Section, the
22 public utility shall pay a one-time construction fee to each
23 county in which the Project is constructed within 30 days after
24 the completion of construction. The construction fee shall be
25 \$20,000 per mile of high voltage electric service line
26 constructed in that county, or a proportionate fraction of that

1 fee. The fee shall be in lieu of any permitting fees that
2 otherwise would be imposed by a county. Counties receiving a
3 payment under this subsection (h) may distribute all or
4 portions of the fee to local taxing districts in that county.

5 (i) Notwithstanding any other provisions of this Act, a
6 decision granting a certificate under this Section shall
7 include an order pursuant to Section 8-503 of this Act
8 authorizing or directing the construction of the high voltage
9 electric service line and related facilities as approved by the
10 Commission, in the manner and within the time specified in said
11 order.

12 (220 ILCS 5/8-509) (from Ch. 111 2/3, par. 8-509)

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

1 its order under this Section within 45 days after the utility
2 files its petition under this Section.

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

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

15 (220 ILCS 5/8-510) (from Ch. 111 2/3, par. 8-510)

16 Sec. 8-510. Land surveys and land use studies. For the
17 purpose of making land surveys and land use studies, any public
18 utility that has been granted a certificate of public
19 convenience and necessity by, or received an order under
20 Section 8-503 or 8-406.1 of this Act from, the Commission may,
21 30 days after providing written notice to the owner thereof by
22 registered mail, enter upon the property of any owner who has
23 refused permission for entrance upon that property, but subject
24 to responsibility for all damages which may be inflicted
25 thereby.

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

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".