



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB1703

by Rep. Dan Reitz

#### SYNOPSIS AS INTRODUCED:

220 ILCS 5/15-401

Amends the Public Utilities Act. In provisions concerning issuance of a certificate of good standing authorizing a person to operate as a common carrier by pipeline, makes changes concerning the factors the Illinois Commerce Commission shall consider in its determination of public convenience and necessity for a proposed pipeline or facility; provides that an application may request either that the Commission review and approve a specific route for a pipeline, or that the Commission review and approve a project route width that identifies the areas in which the pipeline would be located; provides for a consolidated proceeding for decisions on consolidated applications; requires the Commission to make its determination on any application filed pursuant to this Section and issue its final order within one year after the date that the application is filed unless an extension is granted; provides that the rules of the Commission may include additional options for expediting the issuance of permits and certificates. Makes other changes. Effective July 1, 2011.

LRB097 10381 ASK 50596 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 as follows:

6 (220 ILCS 5/15-401)

7 Sec. 15-401. Licensing.

8 (a) No person shall operate as a common carrier by pipeline  
9 unless the person possesses a certificate in good standing  
10 authorizing it to operate as a common carrier by pipeline. No  
11 person shall begin or continue construction of a pipeline or  
12 other facility, other than the repair or replacement of an  
13 existing pipeline or facility, for use in operations as a  
14 common carrier by pipeline unless the person possesses a  
15 certificate in good standing.

16 (b) Requirements for issuance. The Commission, after a  
17 hearing, shall grant an application for a certificate  
18 authorizing operations as a common carrier by pipeline, in  
19 whole or in part, to the extent that it finds that the  
20 application was properly filed; a public need for the service  
21 exists; the applicant is fit, willing, and able to provide the  
22 service in compliance with this Act, Commission regulations,  
23 and orders; and the public convenience and necessity requires

1 issuance of the certificate. Evidence encompassing any of the  
2 factors described in items (1) through (9) of this subsection  
3 (b) that is submitted by the applicant, any other party, or the  
4 Commission's staff shall also be considered by the Commission  
5 in determining whether a public need for the service exists  
6 under either current or expected conditions. The changes in  
7 this subsection (b) are intended to be confirmatory of existing  
8 law.

9 In its determination of public convenience and necessity  
10 for a proposed pipeline or facility designed or intended to  
11 transport crude oil and any alternate locations for such  
12 proposed pipeline or facility, the Commission shall consider,  
13 but not be limited to, the following:

14 (1) any evidence presented by the Illinois  
15 Environmental Protection Agency regarding the  
16 environmental impact of the proposed pipeline or other  
17 facility;

18 (2) any evidence presented by the Illinois Department  
19 of Transportation regarding the impact of the proposed  
20 pipeline or facility on traffic safety, road construction,  
21 or other transportation issues;

22 (3) any evidence presented by the Department of Natural  
23 Resources regarding the impact of the proposed pipeline or  
24 facility on any conservation areas, forest preserves,  
25 wildlife preserves, wetlands, or any other natural  
26 resource;

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

5 (5) any evidence of the effect of the pipeline upon  
6 property values presented by property owners who will be  
7 affected by the proposed pipeline or facility, provided  
8 that the Commission need not hear evidence as to the actual  
9 valuation of property such as that as would be presented to  
10 and determined by the courts under the Eminent Domain Act;

11 (6) any evidence presented by the Department of  
12 Commerce and Economic Opportunity regarding the current  
13 and future local, State-wide, or regional economic effect,  
14 direct or indirect, of the proposed pipeline or facility  
15 including, but not limited to, property values, employment  
16 rates, and residential and business development; ~~and~~

17 (7) any evidence addressing the factors described in  
18 items (1) through (9) of this subsection (b) or other  
19 relevant factors that is presented by any other State  
20 agency, the applicant, a party, or other entity that  
21 participates in the proceeding, including evidence  
22 presented by the Commission's staff;-

23 (8) any evidence presented by a State agency or unit of  
24 State or local government as to the current and future  
25 national, State-wide, or regional economic effects of the  
26 proposed pipeline, direct or indirect, as they affect

1 residents or businesses in Illinois, including, but not  
2 limited to, such impacts as the ability of manufacturers in  
3 Illinois to meet public demand for related services and  
4 products and to compete in the national and regional  
5 economies, improved access of suppliers to regional and  
6 national shipping grids, the ability of the State to access  
7 funds made available for energy infrastructure by the  
8 federal government, mitigation of foreseeable spikes in  
9 price affecting Illinois residents or businesses due to  
10 sudden changes in supply or transportation capacity, and  
11 the likelihood that the proposed construction will  
12 substantially encourage related investment in the State's  
13 energy infrastructure and the creation of energy related  
14 jobs; and

15 (9) any evidence presented by any State or federal  
16 governmental entity as to how the proposed pipeline or  
17 facility will affect the security, stability, and  
18 reliability of energy in the State or in the region.

19 In its written order, the Commission shall address all of  
20 the evidence presented, and if the order is contrary to any of  
21 the evidence, the Commission shall state the reasons for its  
22 determination with regard to that evidence. ~~The provisions of~~  
23 ~~this amendatory Act of 1996 apply to any certificate granted or~~  
24 ~~denied after the effective date of this amendatory Act of 1996.~~

25 (c) An application filed pursuant to this Section may  
26 request either that the Commission review and approve a

1 specific route for a pipeline, or that the Commission review  
2 and approve a project route width that identifies the areas in  
3 which the pipeline would be located, with such width ranging  
4 from the minimum width required for a pipeline right-of-way up  
5 to 500 feet in width. The purpose for allowing the option of  
6 review and approval of a project route width is to provide  
7 increased flexibility during the construction process to  
8 accommodate specific landowner requests, avoid environmentally  
9 sensitive areas, or address special environmental permitting  
10 requirements.

11 (d) A common carrier by pipeline that may request any other  
12 approvals as may be needed from the Commission for completion  
13 of the pipeline under Article VIII or any other Article or  
14 Section of this Act at the same time, and as part of the same  
15 application, as its request for a certificate of good standing  
16 under this Section. The Commission's rules shall ensure that  
17 notice of such a consolidated application is provided within 30  
18 days after filing to the landowners along a proposed project  
19 route, or to the potentially affected landowners within a  
20 proposed project route width, using the notification  
21 procedures set forth in the Commission's rules. If a  
22 consolidated application is submitted, then the requests shall  
23 be heard on a consolidated basis and a decision on all issues  
24 shall be entered within the time frames stated in subsection  
25 (e) of this Section. In such a consolidated proceeding, the  
26 Commission may consider evidence relating to the same factors

1 identified in items (1) through (9) of subsection (b) of this  
2 Section in granting a certificate of need under Section 8-503  
3 of this Act. If the Commission grants approval of a project  
4 route width as opposed to a specific project route, then the  
5 common carrier by pipeline must, as it finalizes the actual  
6 pipeline alignment within the project route width, file its  
7 final list of affected landowners with the Commission at least  
8 14 days in advance of beginning construction on any tract  
9 within the project route width and also provide the Commission  
10 with at least 14 days notice before filing a complaint for  
11 eminent domain in the circuit court with regard to any tract  
12 within the project route width.

13 (e) The Commission shall make its determination on any  
14 application filed pursuant to this Section and issue its final  
15 order within one year after the date that the application is  
16 filed unless an extension is granted as provided in this  
17 subsection (e). The Commission may extend the one-year time  
18 period for issuing a final order on an application filed  
19 pursuant to this Section up to an additional 6 months if it  
20 finds, following the filing of initial testimony by the parties  
21 to the proceeding, that due to the number of affected  
22 landowners and other parties in the proceeding and the  
23 complexity of the contested issues before it, additional time  
24 is needed to ensure a complete review of the evidence. If an  
25 extension is granted, then the schedule for the proceeding  
26 shall not be further extended beyond this 6-month period, and

1 the Commission shall issue its final order within the 6-month  
2 extension period. The Commission shall also have the power to  
3 establish an expedited schedule for making its determination on  
4 an application filed pursuant to this Section in less than one  
5 year if it finds that the public interest requires the setting  
6 of such an expedited schedule.

7 (f) Within 6 months after the Commission's entry of an  
8 order approving either a specific route or a project route  
9 width under this Section, the common carrier by pipeline that  
10 receives such order may file supplemental applications for  
11 minor route deviations outside the approved project route  
12 width, allowing for additions or changes to the approved route  
13 to address environmental concerns encountered during  
14 construction or to accommodate landowner requests. Notice of a  
15 supplemental application shall be provided to any State agency  
16 that appeared in the original proceeding or immediately  
17 affected landowner at the time such supplemental application is  
18 filed. The route deviations shall be approved by the Commission  
19 within 45 days, unless a written objection is filed to the  
20 supplemental application within 20 days after the date such  
21 supplemental application is filed. Hearings on any such  
22 supplemental application shall be limited to the  
23 reasonableness of the specific variance proposed, and the  
24 issues of public need or public convenience or necessity for  
25 the project or fitness of the applicant shall not be reopened  
26 in the supplemental proceeding.



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

13       (h) ~~(e)~~ Duties and obligations of common carriers by  
14 pipeline. Each common carrier by pipeline shall provide  
15 adequate service to the public at reasonable rates and without  
16 discrimination.

17       (Source: P.A. 94-793, eff. 5-19-06.)

18       Section 99. Effective date. This Act takes effect July 1,  
19 2011.