

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 1. Short title. This Act may be cited as the Carbon  
5 Dioxide Transportation and Sequestration Act.

6 Section 5. Legislative purpose. Pipeline transportation of  
7 carbon dioxide for sequestration, enhanced oil recovery, and  
8 other purposes is declared to be a public use and service, in  
9 the public interest, and a benefit to the welfare of Illinois  
10 and the people of Illinois because pipeline transportation is  
11 necessary for sequestration, enhanced oil recovery, or other  
12 carbon management purposes and thus is an essential component  
13 to compliance with required or voluntary plans to reduce carbon  
14 dioxide emissions from "clean coal" facilities and other  
15 sources. Carbon dioxide pipelines are critical to the promotion  
16 and use of Illinois coal and also advance economic development,  
17 environmental protection, and energy security in the State.

18 Section 10. Definitions. As used in this Act:

19 "Carbon dioxide pipeline" or "pipeline" means the in-state  
20 portion of a pipeline, including appurtenant facilities,  
21 property rights, and easements, that are used exclusively for  
22 the purpose of transporting carbon dioxide to a point of sale,

1 storage, enhanced oil recovery, or other carbon management  
2 application.

3 "Clean coal facility" has the meaning ascribed to that term  
4 in Section 1-10 of the Illinois Power Agency Act.

5 "Clean coal SNG facility" has the meaning ascribed to that  
6 term in Section 1-10 of the Illinois Power Agency Act.

7 "Clean coal SNG brownfield facility" has the meaning  
8 ascribed to that term in Section 1-10 of the Illinois Power  
9 Agency Act.

10 "Commission" means the Illinois Commerce Commission.

11 "Sequester" has the meaning ascribed to that term in  
12 Section 1-10 of the Illinois Power Agency Act.

13 "Transportation" means the physical movement of carbon  
14 dioxide by pipeline conducted for a person's own use or account  
15 or the use or account of another person or persons.

16 Section 15. Scope. This Act applies to the application  
17 process for the issuance of a certificate of authority by an  
18 owner or operator of a pipeline designed, constructed, and  
19 operated to transport and to sequester carbon dioxide produced  
20 by a clean coal facility, by a clean coal SNG facility, by a  
21 clean coal SNG brownfield facility, or by any other source that  
22 will result in the reduction of carbon dioxide emissions from  
23 that source.

24 Section 20. Application.

1           (a) No person or entity may construct, operate, or repair a  
2 carbon dioxide pipeline unless the person or entity possesses a  
3 certificate of authority.

4           (b) The Commission, after a hearing, shall grant an  
5 application for a certificate of authority authorizing the  
6 construction and operation of a carbon dioxide pipeline to the  
7 extent that it finds that the application was properly filed;  
8 the applicant is fit, willing, and able to construct and  
9 operate the pipeline in compliance with this Act and with  
10 Commission regulations and orders; and the proposed pipeline is  
11 consistent with the public interest, public benefit, and  
12 legislative purpose as set forth in this Act. Evidence  
13 encompassing any of the factors described in items (1) through  
14 (9) of this subsection (b) that is submitted by the applicant,  
15 any other party, or the Commission's staff shall also be  
16 considered by the Commission.

17           In its review of an application for a certificate of  
18 authority to construct and operate a proposed carbon dioxide  
19 pipeline and any alternate locations for that proposed pipeline  
20 or facility, the Commission shall consider, but not be limited  
21 to, the following:

22           (1) that the applicant has filed or will timely file  
23 with the Pipeline and Hazardous Materials Safety  
24 Administration of the U.S. Department of Transportation  
25 all forms required by that agency in advance of  
26 constructing a carbon dioxide pipeline;

1           (2) that the applicant has filed or will timely file  
2 with the U.S. Army Corps of Engineers all applications for  
3 permits required by that agency in advance of constructing  
4 a carbon dioxide pipeline;

5           (3) that the applicant has entered into an agreement  
6 with the Illinois Department of Agriculture that governs  
7 the mitigation of agricultural impacts associated with the  
8 construction of the proposed pipeline;

9           (4) any evidence regarding the applicant's financial,  
10 managerial, legal, and technical qualifications necessary  
11 to construct and operate the proposed carbon dioxide  
12 pipeline;

13           (5) any evidence of the effect of the pipeline upon the  
14 economy, infrastructure, and public safety presented by  
15 local governmental units that will be affected by the  
16 proposed pipeline route;

17           (6) any evidence of the effect of the pipeline upon  
18 property values presented by property owners who will be  
19 affected by the proposed pipeline or facility, provided  
20 that the Commission need not hear evidence as to the actual  
21 valuation of property such as that as would be presented to  
22 and determined by the courts under the Eminent Domain Act;

23           (7) any evidence presented by the Department of  
24 Commerce and Economic Opportunity regarding the current  
25 and future local, State-wide, or regional economic effect,  
26 direct or indirect, of the proposed pipeline or facility

1 including, but not limited to, ability of the State to  
2 attract economic growth, meet future energy requirements,  
3 and ensure compliance with environmental requirements and  
4 goals;

5 (8) any evidence addressing the factors described in  
6 items (1) through (9) of this subsection (b) or other  
7 relevant factors that is presented by any other State  
8 agency, the applicant, a party, or other entity that  
9 participates in the proceeding, including evidence  
10 presented by the Commission's staff; and

11 (9) any evidence presented by any State or federal  
12 governmental entity as to how the proposed pipeline will  
13 affect the security, stability, and reliability of energy.

14 In its written order, the Commission shall address all of  
15 the evidence presented, and if the order is contrary to any of  
16 the evidence, the Commission shall state the reasons for its  
17 determination with regard to that evidence.

18 (c) When an applicant files its application for a  
19 certificate of authority with the Commission, it shall provide  
20 notice to each local government where the proposed pipeline  
21 will be located and include a map of the proposed pipeline  
22 route. The applicant shall also publish notice in a newspaper  
23 of general circulation in each county where the proposed  
24 pipeline is located.

25 (d) An application for a certificate of authority filed  
26 pursuant to this Section may request either that the Commission

1 review and approve a specific route for a carbon dioxide  
2 pipeline, or that the Commission review and approve a project  
3 route width that identifies the areas in which the pipeline  
4 would be located, with such width ranging from the minimum  
5 width required for a pipeline right-of-way up to 200 feet in  
6 width. The purpose for allowing the option of review and  
7 approval of a project route width is to provide increased  
8 flexibility during the construction process to accommodate  
9 specific landowner requests, avoid environmentally sensitive  
10 areas, or address special environmental permitting  
11 requirements.

12 (e) The Commission's rules shall ensure that notice of an  
13 application for a certificate of authority is provided within  
14 30 days after filing to the landowners along a proposed project  
15 route, or to the potentially affected landowners within a  
16 proposed project route width, using the notification  
17 procedures set forth in the Commission's rules. If the  
18 Commission grants approval of a project route width as opposed  
19 to a specific project route, then the applicant must, as it  
20 finalizes the actual pipeline alignment within the project  
21 route width, file its final list of affected landowners with  
22 the Commission at least 14 days in advance of beginning  
23 construction on any tract within the project route width and  
24 also provide the Commission with at least 14 days' notice  
25 before filing a complaint for eminent domain in the circuit  
26 court with regard to any tract within the project route width.

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2 (f) The Commission shall make its determination on any  
3 application for a certificate of authority filed pursuant to  
4 this Section and issue its final order within 11 months after  
5 the date that the application is filed.

6 (g) Within 6 months after the Commission's entry of an  
7 order approving either a specific route or a project route  
8 width under this Section, the owner or operator of the carbon  
9 dioxide pipeline that receives that order may file supplemental  
10 applications for minor route deviations outside the approved  
11 project route width, allowing for additions or changes to the  
12 approved route to address environmental concerns encountered  
13 during construction or to accommodate landowner requests.  
14 Notice of a supplemental application shall be provided to any  
15 State agency that appeared in the original proceeding or  
16 immediately affected landowner at the time that supplemental  
17 application is filed. The route deviations shall be approved by  
18 the Commission within 45 days, unless a written objection is  
19 filed to the supplemental application within 20 days after the  
20 date the supplemental application is filed. If a written  
21 objection is filed, then the Commission shall issue an order  
22 either granting or denying the route deviation within 60 days  
23 after the filing of the objection. Hearings on any such  
24 supplemental application shall be limited to the  
25 reasonableness of the specific variance proposed, and the  
26 issues of the public interest and benefit of the project or

1 fitness of the applicant shall not be reopened in the  
2 supplemental proceeding.

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

14 (i) A certificate of authority to construct and operate a  
15 carbon dioxide pipeline issued by the Commission shall contain  
16 and include all of the following:

17 (1) a grant of authority to construct and operate a  
18 carbon dioxide pipeline as requested in the application,  
19 subject to the laws of this State; and

20 (2) a limited grant of authority to take and acquire an  
21 easement in any property or interest in property for the  
22 construction, maintenance, or operation of a carbon  
23 dioxide pipeline in the manner provided for the exercise of  
24 the power of eminent domain under the Eminent Domain Act.  
25 The limited grant of authority shall be restricted to, and  
26 exercised solely for, the purpose of siting,



1 rights-of-way, and easements appurtenant, including  
2 construction and maintenance. The applicant shall not  
3 exercise this power until it has used reasonable and good  
4 faith efforts to acquire the property or easement thereto.  
5 The applicant may thereafter use this power when the  
6 applicant determines that the easement is necessary to  
7 avoid unreasonable delay or economic hardship to the  
8 progress of activities carried out pursuant to the  
9 certificate of authority.

10 Section 25. Procedures. Notwithstanding any other  
11 provision of this Act, any power granted pursuant to this Act  
12 to acquire an easement is subject to, and shall be exercised in  
13 accordance with, the Eminent Domain Act.

14 Section 30. Safety. A carbon dioxide pipeline owner shall  
15 construct, maintain, and operate all of its pipelines, related  
16 facilities, and equipment in this State in a manner that poses  
17 no undue risk to its employees or the public. The Commission  
18 shall adopt federal safety regulations governing the  
19 construction, maintenance, and operations of carbon dioxide  
20 pipelines, related facilities, and equipment to ensure the  
21 safety of pipeline employees and the public.

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.