



Rep. Thomas Holbrook

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1 AMENDMENT TO SENATE BILL 1821

2 AMENDMENT NO. _____. Amend Senate Bill 1821 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Carbon 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,

1 environmental protection, and energy security in the State.

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

3 "Carbon dioxide pipeline" or "pipeline" means the in-state
4 portion of a pipeline, including appurtenant facilities,
5 property rights, and easements, that are used exclusively for
6 the purpose of transporting carbon dioxide to a point of sale,
7 storage, enhanced oil recovery, or other carbon management
8 application.

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

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

13 "Commission" means the Illinois Commerce Commission.

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

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

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

1 dioxide emissions from that source.

2 Section 20. Application.

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

6 (b) The Commission, after a hearing, may grant an
7 application for a certificate of authority authorizing the
8 construction and operation of a carbon dioxide pipeline if it
9 makes a specific written finding as to each of the following:

10 (1) the application was properly filed;

11 (2) the applicant is fit, willing, and able to
12 construct and operate the pipeline in compliance with this
13 Act and with Commission regulations and orders of the
14 Commission or any applicable federal agencies;

15 (3) the applicant has entered into an agreement with a
16 clean coal facility, a clean coal SNG facility, or any
17 other source that will result in the reduction of carbon
18 dioxide emissions from that source;

19 (4) the applicant has filed with the Pipeline and
20 Hazardous Materials Safety Administration of the U.S.
21 Department of Transportation all forms required by that
22 agency in advance of constructing a carbon dioxide
23 pipeline;

24 (5) the applicant has filed with the U.S. Army Corps of
25 Engineers all applications for permits required by that

1 agency in advance of constructing a carbon dioxide
2 pipeline;

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

7 (7) the applicant possesses the financial, managerial,
8 legal, and technical qualifications necessary to construct
9 and operate the proposed carbon dioxide pipeline; and

10 (8) the proposed pipeline is consistent with the public
11 interest, public benefit, and legislative purpose as set
12 forth in this Act. In addition to any other evidence the
13 Commission may consider on this specific finding, the
14 Commission shall consider the following:

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

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

26 (C) any evidence presented by the Department of

1 Commerce and Economic Opportunity regarding the
2 current and future local, State-wide, or regional
3 economic effect, direct or indirect, of the proposed
4 pipeline or facility including, but not limited to,
5 ability of the State to attract economic growth, meet
6 future energy requirements, and ensure compliance with
7 environmental requirements and goals;

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

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

18 In its written order, the Commission shall address all of
19 the evidence presented, and if the order is contrary to any of
20 the evidence, the Commission shall state the reasons for its
21 determination with regard to that evidence.

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

1 of general circulation in each county where the proposed
2 pipeline is located.

3 (d) An application for a certificate of authority filed
4 pursuant to this Section shall request either that the
5 Commission review and approve a specific route for a carbon
6 dioxide pipeline, or that the Commission review and approve a
7 project route width that identifies the areas in which the
8 pipeline would be located, with such width ranging from the
9 minimum width required for a pipeline right-of-way up to 200
10 feet in width. A map of the route or route width shall be
11 included in the application. The purpose for allowing the
12 option of review and approval of a project route width is to
13 provide increased flexibility during the construction process
14 to accommodate specific landowner requests, avoid
15 environmentally sensitive areas, or address special
16 environmental permitting requirements.

17 (e) The Commission's rules shall ensure that notice of an
18 application for a certificate of authority is provided within
19 30 days after filing to the landowners along a proposed project
20 route, or to the potentially affected landowners within a
21 proposed project route width, using the notification
22 procedures set forth in the Commission's rules. If the
23 Commission grants approval of a project route width as opposed
24 to a specific project route, then the applicant must, as it
25 finalizes the actual pipeline alignment within the project
26 route width, file its final list of affected landowners with

1 the Commission at least 14 days in advance of beginning
2 construction on any tract within the project route width and
3 also provide the Commission with at least 14 days' notice
4 before filing a complaint for eminent domain in the circuit
5 court with regard to any tract within the project route width.

6 (f) The Commission shall make its determination on any
7 application for a certificate of authority filed pursuant to
8 this Section and issue its final order within 11 months after
9 the date that the application is filed. The Commission's
10 failure to act within this time period shall be deemed a denial
11 of the application.

12 (g) The Commission shall not issue its final order until
13 the applicant is in receipt of valid permits from the Pipeline
14 and Hazardous Materials Safety Administration of the U.S.
15 Department of Transportation, U.S. Army Corps of Engineers, and
16 Illinois Department of Agriculture, in addition to any other
17 necessary permits for construction.

18 (h) Within 6 months after the Commission's entry of an
19 order approving either a specific route or a project route
20 width under this Section, the owner or operator of the carbon
21 dioxide pipeline that receives that order may file supplemental
22 applications for minor route deviations outside the approved
23 project route width, allowing for additions or changes to the
24 approved route to address environmental concerns encountered
25 during construction or to accommodate landowner requests. The
26 supplemental application shall specifically detail the

1 environmental concerns or landowner requests prompting the
2 route changes, including the names of any landowners or
3 entities involved. Notice of a supplemental application shall
4 be provided to any State agency or unit of local government
5 that appeared in the original proceeding and to any landowner
6 affected by the proposed route deviation at the time that
7 supplemental application is filed. The route deviations shall
8 be approved by the Commission no sooner than 90 days after all
9 interested parties receive notice of the supplemental
10 application, unless a written objection is filed to the
11 supplemental application within 45 days after such notice is
12 received. If a written objection is filed, then the Commission
13 shall issue an order either granting or denying the route
14 deviation within 90 days after the filing of the objection.
15 Hearings on any such supplemental application shall be limited
16 to the reasonableness of the specific variance proposed, and
17 the issues of the public interest and benefit of the project or
18 fitness of the applicant shall be considered only to the extent
19 that the route deviation has raised new concerns with regard to
20 those issues.

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

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

1 (2) a limited grant of authority to take and acquire an
2 easement in any property or interest in property for the
3 construction, maintenance, or operation of a carbon
4 dioxide pipeline in the manner provided for the exercise of
5 the power of eminent domain under the Eminent Domain Act.
6 The limited grant of authority shall be restricted to, and
7 exercised solely for, the purpose of siting,
8 rights-of-way, and easements appurtenant, including
9 construction and maintenance. The applicant shall not
10 exercise this power until it has used reasonable and good
11 faith efforts to acquire the property or easement thereto.
12 The applicant may thereafter use this power when the
13 applicant determines that the easement is necessary to
14 avoid unreasonable delay or economic hardship to the
15 progress of activities carried out pursuant to the
16 certificate of authority.

17 Section 25. Procedures. Notwithstanding any other
18 provision of this Act, any power granted pursuant to this Act
19 to acquire an easement is subject to, and shall be exercised in
20 accordance with, the Eminent Domain Act.

21 Section 30. Safety. A carbon dioxide pipeline owner shall
22 construct, maintain, and operate all of its pipelines, related
23 facilities, and equipment in this State in a manner that poses
24 no undue risk to its employees or the public. The Commission

1 shall not issue any certificates or permits allowing the
2 construction of a carbon dioxide pipeline until it has adopted
3 federal safety regulations governing the construction,
4 maintenance, and operations of carbon dioxide pipelines,
5 related facilities, and equipment to ensure the safety of
6 pipeline employees and the public.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.".