

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 current or expected conditions. The changes in this
7 subsection (b) are declarative of existing law.

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

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

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

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

26 (4) any evidence of the effect of the pipeline upon the

1 economy, infrastructure, and public safety presented by
2 local governmental units that will be affected by the
3 proposed pipeline or facility;

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

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

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

22 (8) any evidence presented by a State agency or unit of
23 State or local government as to the current and future
24 national, State-wide, or regional economic effects of the
25 proposed pipeline, direct or indirect, as they affect
26 residents or businesses in Illinois, including, but not

1 limited to, such impacts as the ability of manufacturers in
2 Illinois to meet public demand for related services and
3 products and to compete in the national and regional
4 economies, improved access of suppliers to regional and
5 national shipping grids, the ability of the State to access
6 funds made available for energy infrastructure by the
7 federal government, mitigation of foreseeable spikes in
8 price affecting Illinois residents or businesses due to
9 sudden changes in supply or transportation capacity, and
10 the likelihood that the proposed construction will
11 substantially encourage related investment in the State's
12 energy infrastructure and the creation of energy related
13 jobs; and

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

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. ~~The provisions of~~
22 ~~this amendatory Act of 1996 apply to any certificate granted or~~
23 ~~denied after the effective date of this amendatory Act of 1996.~~

24 (c) An application filed pursuant to this Section may
25 request that the Commission review and approve (1) a specific
26 route for a pipeline or (2) a project route width that

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

9 (d) A common carrier by pipeline may request any other
10 approvals as may be needed from the Commission for completion
11 of the pipeline under Article VIII or any other Article of this
12 Act at the same time, and as part of the same application, as
13 its request for a certificate of good standing under this
14 Section. The Commission's rules shall ensure that notice of
15 such a consolidated application is provided within 30 days
16 after filing to the landowners along a proposed project route,
17 or to the potentially affected landowners within a proposed
18 project route width, using the notification procedures set
19 forth in the Commission's rules. If a consolidated application
20 is submitted, then the requests shall be heard on a
21 consolidated basis and a decision on all issues shall be
22 entered within the time frames stated in subsection (e) of this
23 Section. In such a consolidated proceeding, the Commission may
24 consider evidence relating to the same factors identified in
25 items (1) through (9) of subsection (b) of this Section in
26 granting authority under Section 8-503 of this Act. If the

1 Commission grants approval of a project route width as opposed
2 to a specific project route, then the common carrier by
3 pipeline must, as it finalizes the actual pipeline alignment
4 within the project route width, file its final list of affected
5 landowners with the Commission at least 14 days in advance of
6 beginning construction on any tract within the project route
7 width and also provide the Commission with at least 14 days
8 notice before filing a complaint for eminent domain in the
9 circuit court with regard to any tract within the project route
10 width.

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

1 establish an expedited schedule for making its determination on
2 an application filed pursuant to this Section in less than one
3 year if it finds that the public interest requires the setting
4 of such an expedited schedule.

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

25 (g) The rules of the Commission may include additional
26 options for expediting the issuance of permits and certificates

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

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

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

16 Section 99. Effective date. This Act takes effect July 1,
17 2011.