



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3558

by Rep. John D. Anthony

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-406

from Ch. 111 2/3, par. 8-406

Amends the Public Utilities Act. Provides that no public utility shall begin the construction of any nuclear power plant extension, alteration, or addition unless and until it has obtained from the Illinois Commerce Commission a certificate that public convenience and necessity require such construction. Removes a provision that prohibits the issuance of a certificate of public convenience and necessity by the Commission regarding the construction of any new power plant within this State until the Director of the Illinois Environmental Protection Agency finds that the United States Government has identified and approved a demonstrable technology or means for the disposal of high level nuclear waste, or until such construction has been specifically approved by a statute enacted by the General Assembly. Effective immediately.

LRB099 08072 HAF 28218 b

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 8-406 as follows:

6 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

7 Sec. 8-406. Certificate of public convenience and
8 necessity.

9 (a) No public utility not owning any city or village
10 franchise nor engaged in performing any public service or in
11 furnishing any product or commodity within this State as of
12 July 1, 1921 and not possessing a certificate of public
13 convenience and necessity from the Illinois Commerce
14 Commission, the State Public Utilities Commission or the Public
15 Utilities Commission, at the time this amendatory Act of 1985
16 goes into effect, shall transact any business in this State
17 until it shall have obtained a certificate from the Commission
18 that public convenience and necessity require the transaction
19 of such business.

20 (b) No public utility shall begin the construction of any
21 new plant, equipment, property or facility which is not in
22 substitution of any existing plant, equipment, property or
23 facility or any extension or alteration thereof or in addition

1 thereto, unless and until it shall have obtained from the
2 Commission a certificate that public convenience and necessity
3 require such construction. Whenever, after a hearing, the
4 Commission determines that any new construction or the
5 transaction of any business by a public utility will promote
6 the public convenience and is necessary thereto, it shall have
7 the power to issue certificates of public convenience and
8 necessity. The Commission shall determine that proposed
9 construction will promote the public convenience and necessity
10 only if the utility demonstrates: (1) that the proposed
11 construction is necessary to provide adequate, reliable, and
12 efficient service to its customers and is the least-cost means
13 of satisfying the service needs of its customers or that the
14 proposed construction will promote the development of an
15 effectively competitive electricity market that operates
16 efficiently, is equitable to all customers, and is the
17 least-cost ~~least-cost~~ means of satisfying those objectives; (2)
18 that the utility is capable of efficiently managing and
19 supervising the construction process and has taken sufficient
20 action to ensure adequate and efficient construction and
21 supervision thereof; and (3) that the utility is capable of
22 financing the proposed construction without significant
23 adverse financial consequences for the utility or its
24 customers.

25 (c) After the effective date of this amendatory Act of
26 1987, no construction shall commence on any new nuclear power

1 plant to be located within this State, ~~and no certificate of~~
2 ~~public convenience and necessity or other authorization shall~~
3 ~~be issued therefor by the Commission,~~ until the Director of the
4 Illinois Environmental Protection Agency finds that the United
5 States Government, through its authorized agency, has
6 identified and approved a demonstrable technology or means for
7 the disposal of high level nuclear waste, or until such
8 construction has been specifically approved by a statute
9 enacted by the General Assembly.

10 No public utility shall begin the construction of any
11 nuclear power plant extension, alteration, or addition unless
12 and until it has obtained from the Commission a certificate
13 that public convenience and necessity require such
14 construction. Whenever, after a hearing, the Commission
15 determines that any new construction or the transaction of any
16 business by a public utility will promote the public
17 convenience and is necessary thereto, it shall have the power
18 to issue certificates of public convenience and necessity. The
19 Commission shall determine that proposed construction will
20 promote the public convenience and necessity only if the
21 utility demonstrates: (1) that the proposed construction is
22 necessary to provide adequate, reliable, and efficient service
23 to its customers and is the least-cost means of satisfying the
24 service needs of its customers or that the proposed
25 construction will promote the development of an effectively
26 competitive electricity market that operates efficiently, is

1 equitable to all customers, and is the least-cost means of
2 satisfying those objectives; (2) that the utility is capable of
3 efficiently managing and supervising the construction process
4 and has taken sufficient action to ensure adequate and
5 efficient construction and supervision thereof; and (3) that
6 the utility is capable of financing the proposed construction
7 without significant adverse financial consequences for the
8 utility or its customers.

9 As used in this Section, "high level nuclear waste" means
10 those aqueous wastes resulting from the operation of the first
11 cycle of the solvent extraction system or equivalent and the
12 concentrated wastes of the subsequent extraction cycles or
13 equivalent in a facility for reprocessing irradiated reactor
14 fuel and shall include spent fuel assemblies prior to fuel
15 reprocessing.

16 (d) In making its determination, the Commission shall
17 attach primary weight to the cost or cost savings to the
18 customers of the utility. The Commission may consider any or
19 all factors which will or may affect such cost or cost savings,
20 including the public utility's engineering judgment regarding
21 the materials used for construction.

22 (e) The Commission may issue a temporary certificate which
23 shall remain in force not to exceed one year in cases of
24 emergency, to assure maintenance of adequate service or to
25 serve particular customers, without notice or hearing, pending
26 the determination of an application for a certificate, and may

1 by regulation exempt from the requirements of this Section
2 temporary acts or operations for which the issuance of a
3 certificate will not be required in the public interest.

4 A public utility shall not be required to obtain but may
5 apply for and obtain a certificate of public convenience and
6 necessity pursuant to this Section with respect to any matter
7 as to which it has received the authorization or order of the
8 Commission under the Electric Supplier Act, and any such
9 authorization or order granted a public utility by the
10 Commission under that Act shall as between public utilities be
11 deemed to be, and shall have except as provided in that Act the
12 same force and effect as, a certificate of public convenience
13 and necessity issued pursuant to this Section.

14 No electric cooperative shall be made or shall become a
15 party to or shall be entitled to be heard or to otherwise
16 appear or participate in any proceeding initiated under this
17 Section for authorization of power plant construction and as to
18 matters as to which a remedy is available under The Electric
19 Supplier Act.

20 (f) Such certificates may be altered or modified by the
21 Commission, upon its own motion or upon application by the
22 person or corporation affected. Unless exercised within a
23 period of 2 years from the grant thereof authority conferred by
24 a certificate of convenience and necessity issued by the
25 Commission shall be null and void.

26 No certificate of public convenience and necessity shall be

1 construed as granting a monopoly or an exclusive privilege,
2 immunity or franchise.

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

13 (1) replace or upgrade any existing high voltage
14 electric service line and related facilities,
15 notwithstanding its length;

16 (2) relocate any existing high voltage electric
17 service line and related facilities, notwithstanding its
18 length, to accommodate construction or expansion of a
19 roadway or other transportation infrastructure; or

20 (3) construct a high voltage electric service line and
21 related facilities that is constructed solely to serve a
22 single customer's premises or to provide a generator
23 interconnection to the public utility's transmission
24 system and that will pass under or over the premises owned
25 by the customer or generator to be served or under or over
26 premises for which the customer or generator has secured

1 the necessary right of way.

2 (Source: P.A. 95-700, eff. 11-9-07; 96-1348, eff. 7-28-10.)

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