



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4969

Introduced 2/5/2016, by Rep. Charles E. Meier

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-406.1

220 ILCS 5/8-509

from Ch. 111 2/3, par. 8-509

Amends the Public Utilities Act. Provides that a public utility may apply for expedited review for a certificate of public convenience and necessity for the construction of any new high voltage service line that does not exceed 25 miles in length across privately owned real estate (instead of any new high voltage electric service line). Provides that privately owned real estate does not include a right-of-way owned in fee simple, subject to an easement, or controlled by a public utility. Provides that the changes shall apply to applications filed on or after this amendatory Act's effective date. Provides that if a public utility seeks to exercise its eminent domain powers after the Commerce Commission has issued an order regarding a certificate of public convenience and necessity, then the Commission must issue its order regarding eminent domain within 365 days (instead of 45 days) after the public utility files its petition. Effective immediately.

LRB099 15834 MLM 40144 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 Sections 8-406.1 and 8-509 as follows:

6 (220 ILCS 5/8-406.1)

7 Sec. 8-406.1. Certificate of public convenience and
8 necessity; expedited procedure.

9 (a) A public utility may apply for a certificate of public
10 convenience and necessity pursuant to this Section for the
11 construction of any new high voltage electric service line that
12 does not exceed 25 miles in length across privately owned real
13 estate and related facilities (Project). For purposes of this
14 Section, "privately owned real estate" shall not include a
15 right-of-way owned in fee simple, subject to an easement, or
16 controlled by a public utility. To facilitate the expedited
17 review process of an application filed pursuant to this
18 Section, an application shall include all of the following:

19 (1) Information in support of the application that
20 shall include the following:

21 (A) A detailed description of the Project,
22 including location maps and plot plans to scale showing
23 all major components.

- 1 (B) The following engineering data:
- 2 (i) a detailed Project description including:
- 3 (I) name and destination of the Project;
- 4 (II) design voltage rating (kV);
- 5 (III) operating voltage rating (kV); and
- 6 (IV) normal peak operating current rating;
- 7 (ii) a conductor, structures, and substations
- 8 description including:
- 9 (I) conductor size and type;
- 10 (II) type of structures;
- 11 (III) height of typical structures;
- 12 (IV) an explanation why these structures
- 13 were selected;
- 14 (V) dimensional drawings of the typical
- 15 structures to be used in the Project; and
- 16 (VI) a list of the names of all new (and
- 17 existing if applicable) substations or
- 18 switching stations that will be associated
- 19 with the proposed new high voltage electric
- 20 service line;
- 21 (iii) the location of the site and
- 22 right-of-way including:
- 23 (I) miles of right-of-way;
- 24 (II) miles of circuit;
- 25 (III) width of the right-of-way; and
- 26 (IV) a brief description of the area

1 traversed by the proposed high voltage
2 electric service line, including a description
3 of the general land uses in the area and the
4 type of terrain crossed by the proposed line;

5 (iv) assumptions, bases, formulae, and methods
6 used in the development and preparation of the
7 diagrams and accompanying data, and a technical
8 description providing the following information:

9 (I) number of circuits, with
10 identification as to whether the circuit is
11 overhead or underground;

12 (II) the operating voltage and frequency;
13 and

14 (III) conductor size and type and number
15 of conductors per phase;

16 (v) if the proposed interconnection is an
17 overhead line, the following additional
18 information also must be provided:

19 (I) the wind and ice loading design
20 parameters;

21 (II) a full description and drawing of a
22 typical supporting structure, including
23 strength specifications;

24 (III) structure spacing with typical
25 ruling and maximum spans;

26 (IV) conductor (phase) spacing; and

1 (V) the designed line-to-ground and
2 conductor-side clearances;

3 (vi) if an underground or underwater
4 interconnection is proposed, the following
5 additional information also must be provided:

6 (I) burial depth;

7 (II) type of cable and a description of any
8 required supporting equipment, such as
9 insulation medium pressurizing or forced
10 cooling;

11 (III) cathodic protection scheme; and

12 (IV) type of dielectric fluid and
13 safeguards used to limit potential spills in
14 waterways;

15 (vii) technical diagrams that provide
16 clarification of any item under this item (1)
17 should be included; and

18 (viii) applicant shall provide and identify a
19 primary right-of-way and one or more alternate
20 rights-of-way for the Project as part of the
21 filing. To the extent applicable, for each
22 right-of-way, an applicant shall provide the
23 information described in this subsection (a). Upon
24 a showing of good cause in its filing, an applicant
25 may be excused from providing and identifying
26 alternate rights-of-way.

1 (2) An application fee of \$100,000, which shall be paid
2 into the Public Utility Fund at the time the Chief Clerk of
3 the Commission deems it complete and accepts the filing.

4 (3) Information showing that the utility has held a
5 minimum of 3 pre-filing public meetings to receive public
6 comment concerning the Project in each county where the
7 Project is to be located, no earlier than 6 months prior to
8 the filing of the application. Notice of the public meeting
9 shall be published in a newspaper of general circulation
10 within the affected county once a week for 3 consecutive
11 weeks, beginning no earlier than one month prior to the
12 first public meeting. If the Project traverses 2 contiguous
13 counties and where in one county the transmission line
14 mileage and number of landowners over whose property the
15 proposed route traverses is 1/5 or less of the transmission
16 line mileage and number of such landowners of the other
17 county, then the utility may combine the 3 pre-filing
18 meetings in the county with the greater transmission line
19 mileage and affected landowners. All other requirements
20 regarding pre-filing meetings shall apply in both
21 counties. Notice of the public meeting, including a
22 description of the Project, must be provided in writing to
23 the clerk of each county where the Project is to be
24 located. A representative of the Commission shall be
25 invited to each pre-filing public meeting.

26 For applications filed after August 18, 2015 (the effective

1 date of Public Act 99-399) ~~this amendatory Act of the 99th~~
2 ~~General Assembly~~, the Commission shall by registered mail
3 notify each owner of record of the land, as identified in the
4 records of the relevant county tax assessor, included in the
5 primary or alternate rights-of-way identified in the utility's
6 application of the time and place scheduled for the initial
7 hearing upon the public utility's application. The utility
8 shall reimburse the Commission for the cost of the postage and
9 supplies incurred for mailing the notice.

10 (b) At the first status hearing the administrative law
11 judge shall set a schedule for discovery that shall take into
12 consideration the expedited nature of the proceeding.

13 (c) Nothing in this Section prohibits a utility from
14 requesting, or the Commission from approving, protection of
15 confidential or proprietary information under applicable law.
16 The public utility may seek confidential protection of any of
17 the information provided pursuant to this Section, subject to
18 Commission approval.

19 (d) The public utility shall publish notice of its
20 application in the official State newspaper within 10 days
21 following the date of the application's filing.

22 (e) The public utility shall establish a dedicated website
23 for the Project 3 weeks prior to the first public meeting and
24 maintain the website until construction of the Project is
25 complete. The website address shall be included in all public
26 notices.

1 (f) The Commission shall, after notice and hearing, grant a
2 certificate of public convenience and necessity filed in
3 accordance with the requirements of this Section if, based upon
4 the application filed with the Commission and the evidentiary
5 record, it finds the Project will promote the public
6 convenience and necessity and that all of the following
7 criteria are satisfied:

8 (1) That the Project is necessary to provide adequate,
9 reliable, and efficient service to the public utility's
10 customers and is the least-cost means of satisfying the
11 service needs of the public utility's customers or that the
12 Project will promote the development of an effectively
13 competitive electricity market that operates efficiently,
14 is equitable to all customers, and is the least cost means
15 of satisfying those objectives.

16 (2) That the public utility is capable of efficiently
17 managing and supervising the construction process and has
18 taken sufficient action to ensure adequate and efficient
19 construction and supervision of the construction.

20 (3) That the public utility is capable of financing the
21 proposed construction without significant adverse
22 financial consequences for the utility or its customers.

23 (g) The Commission shall issue its decision with findings
24 of fact and conclusions of law granting or denying the
25 application no later than 150 days after the application is
26 filed. The Commission may extend the 150-day deadline upon

1 notice by an additional 75 days if, on or before the 30th day
2 after the filing of the application, the Commission finds that
3 good cause exists to extend the 150-day period.

4 (h) In the event the Commission grants a public utility's
5 application for a certificate pursuant to this Section, the
6 public utility shall pay a one-time construction fee to each
7 county in which the Project is constructed within 30 days after
8 the completion of construction. The construction fee shall be
9 \$20,000 per mile of high voltage electric service line
10 constructed in that county, or a proportionate fraction of that
11 fee. The fee shall be in lieu of any permitting fees that
12 otherwise would be imposed by a county. Counties receiving a
13 payment under this subsection (h) may distribute all or
14 portions of the fee to local taxing districts in that county.

15 (i) Notwithstanding any other provisions of this Act, a
16 decision granting a certificate under this Section shall
17 include an order pursuant to Section 8-503 of this Act
18 authorizing or directing the construction of the high voltage
19 electric service line and related facilities as approved by the
20 Commission, in the manner and within the time specified in said
21 order.

22 (j) The changes made to this Section by this amendatory Act
23 of the 99th General Assembly shall apply to all applications
24 filed on or after the effective date of this amendatory Act.

25 (Source: P.A. 99-399, eff. 8-18-15.)

1 (220 ILCS 5/8-509) (from Ch. 111 2/3, par. 8-509)

2 Sec. 8-509. When necessary for the construction of any
3 alterations, additions, extensions or improvements ordered or
4 authorized under Section 8-406.1, 8-503, or 12-218 of this Act,
5 any public utility may enter upon, take or damage private
6 property in the manner provided for by the law of eminent
7 domain. If a public utility seeks relief under this Section in
8 the same proceeding in which it seeks a certificate of public
9 convenience and necessity under Section 8-406.1 of this Act,
10 the Commission shall enter its order under this Section either
11 as part of the Section 8-406.1 order or at the same time it
12 enters the Section 8-406.1 order. If a public utility seeks
13 relief under this Section after the Commission enters its order
14 in the Section 8-406.1 proceeding, the Commission shall issue
15 its order under this Section within 365 ~~45~~ days after the
16 utility files its petition under this Section.

17 This Section applies to the exercise of eminent domain
18 powers by telephone companies or telecommunications carriers
19 only when the facilities to be constructed are intended to be
20 used in whole or in part for providing one or more intrastate
21 telecommunications services classified as "noncompetitive"
22 under Section 13-502 in a tariff filed by the condemnor. The
23 exercise of eminent domain powers by telephone companies or
24 telecommunications carriers in all other cases shall be
25 governed solely by "An Act relating to the powers, duties and
26 property of telephone companies", approved May 16, 1903, as now

1 or hereafter amended.

2 (Source: P.A. 96-1348, eff. 7-28-10.)

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