



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB5815

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 18270 EGJ 42641 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 (h) A public utility seeking to construct a high-voltage  
3 electric service line and related facilities (Project) must  
4 show that the utility has held a minimum of 2 pre-filing public  
5 meetings to receive public comment concerning the Project in  
6 each county where the Project is to be located, no earlier than  
7 6 months prior to filing an application for a certificate of  
8 public convenience and necessity from the Commission. Notice of  
9 the public meeting shall be published in a newspaper of general  
10 circulation within the affected county once a week for 3  
11 consecutive weeks, beginning no earlier than one month prior to  
12 the first public meeting. If the Project traverses 2 contiguous  
13 counties and where in one county the transmission line mileage  
14 and number of landowners over whose property the proposed route  
15 traverses is one-fifth or less of the transmission line mileage  
16 and number of such landowners of the other county, then the  
17 utility may combine the 2 pre-filing meetings in the county  
18 with the greater transmission line mileage and affected  
19 landowners. All other requirements regarding pre-filing  
20 meetings shall apply in both counties. Notice of the public  
21 meeting, including a description of the Project, must be  
22 provided in writing to the clerk of each county where the  
23 Project is to be located. A representative of the Commission  
24 shall be invited to each pre-filing public meeting.

25 (i) For applications filed after the effective date of this  
26 amendatory Act of the 99th General Assembly, the Commission



1 shall by registered mail notify each owner of record of land,  
2 as identified in the records of the relevant county tax  
3 assessor, included in the right-of-way over which the utility  
4 seeks in its application to construct a high-voltage electric  
5 line of the time and place scheduled for the initial hearing on  
6 the public utility's application. The utility shall reimburse  
7 the Commission for the cost of the postage and supplies  
8 incurred for mailing the notice.

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

10 Section 99. Effective date. This Act takes effect upon  
11 becoming law.