

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 1. Short title. This Act may be cited as the Carbon
5 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,
17 environmental protection, and energy security in the State.

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

19 "Carbon dioxide pipeline" or "pipeline" means the in-state
20 portion of a pipeline, including appurtenant facilities,
21 property rights, and easements, that are used exclusively for
22 the purpose of transporting carbon dioxide to a point of sale,

1 storage, enhanced oil recovery, or other carbon management
2 application.

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

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

7 "Commission" means the Illinois Commerce Commission.

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

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

13 Section 15. Scope. This Act applies to the application
14 process for the issuance of a certificate of authority by an
15 owner or operator of a pipeline designed, constructed, and
16 operated to transport and to sequester carbon dioxide produced
17 by a clean coal facility, by a clean coal SNG facility, or by
18 any other source that will result in the reduction of carbon
19 dioxide emissions from that source.

20 Section 20. Application.

21 (a) No person or entity may construct, operate, or repair a
22 carbon dioxide pipeline unless the person or entity possesses a
23 certificate of authority.

24 (b) The Commission, after a hearing, may grant an

1 application for a certificate of authority authorizing the
2 construction and operation of a carbon dioxide pipeline if it
3 makes a specific written finding as to each of the following:

4 (1) the application was properly filed;

5 (2) the applicant is fit, willing, and able to
6 construct and operate the pipeline in compliance with this
7 Act and with Commission regulations and orders of the
8 Commission or any applicable federal agencies;

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

13 (4) the applicant has filed with the Pipeline and
14 Hazardous Materials Safety Administration of the U.S.
15 Department of Transportation all forms required by that
16 agency in advance of constructing a carbon dioxide
17 pipeline;

18 (5) the applicant has filed with the U.S. Army Corps of
19 Engineers all applications for permits required by that
20 agency in advance of constructing a carbon dioxide
21 pipeline;

22 (6) the applicant has entered into an agreement with
23 the Illinois Department of Agriculture that governs the
24 mitigation of agricultural impacts associated with the
25 construction of the proposed pipeline;

26 (7) the applicant possesses the financial, managerial,

1 legal, and technical qualifications necessary to construct
2 and operate the proposed carbon dioxide pipeline; and

3 (8) the proposed pipeline is consistent with the public
4 interest, public benefit, and legislative purpose as set
5 forth in this Act. In addition to any other evidence the
6 Commission may consider on this specific finding, the
7 Commission shall consider the following:

8 (A) any evidence of the effect of the pipeline upon
9 the economy, infrastructure, and public safety
10 presented by local governmental units that will be
11 affected by the proposed pipeline route;

12 (B) any evidence of the effect of the pipeline upon
13 property values presented by property owners who will
14 be affected by the proposed pipeline or facility,
15 provided that the Commission need not hear evidence as
16 to the actual valuation of property such as that as
17 would be presented to and determined by the courts
18 under the Eminent Domain Act;

19 (C) any evidence presented by the Department of
20 Commerce and Economic Opportunity regarding the
21 current and future local, State-wide, or regional
22 economic effect, direct or indirect, of the proposed
23 pipeline or facility including, but not limited to,
24 ability of the State to attract economic growth, meet
25 future energy requirements, and ensure compliance with
26 environmental requirements and goals;

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

7 (E) any evidence presented by any State or federal
8 governmental entity as to how the proposed pipeline
9 will affect the security, stability, and reliability
10 of energy.

11 In its written order, the Commission shall address all of
12 the evidence presented, and if the order is contrary to any of
13 the evidence, the Commission shall state the reasons for its
14 determination with regard to that evidence.

15 (c) When an applicant files its application for a
16 certificate of authority with the Commission, it shall provide
17 notice to each local government where the proposed pipeline
18 will be located and include a map of the proposed pipeline
19 route. The applicant shall also publish notice in a newspaper
20 of general circulation in each county where the proposed
21 pipeline is located.

22 (d) An application for a certificate of authority filed
23 pursuant to this Section shall request either that the
24 Commission review and approve a specific route for a carbon
25 dioxide pipeline, or that the Commission review and approve a
26 project route width that identifies the areas in which the

1 pipeline would be located, with such width ranging from the
2 minimum width required for a pipeline right-of-way up to 200
3 feet in width. A map of the route or route width shall be
4 included in the application. The purpose for allowing the
5 option of review and approval of a project route width is to
6 provide increased flexibility during the construction process
7 to accommodate specific landowner requests, avoid
8 environmentally sensitive areas, or address special
9 environmental permitting requirements.

10 (e) The Commission's rules shall ensure that notice of an
11 application for a certificate of authority is provided within
12 30 days after filing to the landowners along a proposed project
13 route, or to the potentially affected landowners within a
14 proposed project route width, using the notification
15 procedures set forth in the Commission's rules. If the
16 Commission grants approval of a project route width as opposed
17 to a specific project route, then the applicant must, as it
18 finalizes the actual pipeline alignment within the project
19 route width, file its final list of affected landowners with
20 the Commission at least 14 days in advance of beginning
21 construction on any tract within the project route width and
22 also provide the Commission with at least 14 days' notice
23 before filing a complaint for eminent domain in the circuit
24 court with regard to any tract within the project route width.

25 (f) The Commission shall make its determination on any
26 application for a certificate of authority filed pursuant to

1 this Section and issue its final order within 11 months after
2 the date that the application is filed. The Commission's
3 failure to act within this time period shall not be deemed an
4 approval or denial of the application.

5 (g) A final order of the Commission granting a certificate
6 of authority pursuant to this Act shall be conditioned upon the
7 applicant obtaining all required permits or approvals from the
8 Pipeline and Hazardous Materials Safety Administration of the
9 U.S. Department of Transportation, U.S. Army Corps of
10 Engineers, and Illinois Department of Agriculture, in addition
11 to all other permits and approvals necessary for the
12 construction and operation of the pipeline prior to the start
13 of any construction. The final order must specifically prohibit
14 the start of any construction until all such permits and
15 approvals have been obtained.

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

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

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

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

25 (2) a limited grant of authority to take and acquire an
26 easement in any property or interest in property for the

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

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

19 Section 30. Safety. A carbon dioxide pipeline owner shall
20 construct, maintain, and operate all of its pipelines, related
21 facilities, and equipment in this State in a manner that poses
22 no undue risk to its employees or the public. The Commission
23 shall not issue any certificates or permits allowing the
24 construction of a carbon dioxide pipeline until it has adopted

1 federal safety regulations governing the construction,
2 maintenance, and operations of carbon dioxide pipelines,
3 related facilities, and equipment to ensure the safety of
4 pipeline employees and the public.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.