



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4383

Introduced 1/21/2022, by Rep. Eva Dina Delgado

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-406

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

220 ILCS 5/8-406.1

Amends the Public Utilities Act. In provisions concerning an application for a certificate of public convenience and necessity, provides that the Illinois Commerce Commission shall notify each owner of record of land included in a right-of-way over which the utility seeks in its application to construct a high-voltage electric line of the time and place scheduled for the initial hearing on the public utility's application by certified mail (rather than registered mail).

LRB102 22689 SPS 31835 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 Sections 8-406 and 8-406.1 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
15 Public Utilities Commission, at the time Public Act 84-617
16 ~~this amendatory Act of 1985~~ goes into effect (January 1,
17 1986), shall transact any business in this State until it
18 shall have obtained a certificate from the Commission that
19 public convenience and necessity require the transaction of
20 such business. A certificate of public convenience and
21 necessity requiring the transaction of public utility business
22 in any area of this State shall include authorization to the
23 public utility receiving the certificate of public convenience

1 and necessity to construct such plant, equipment, property, or
2 facility as is provided for under the terms and conditions of
3 its tariff and as is necessary to provide utility service and
4 carry out the transaction of public utility business by the
5 public utility in the designated area.

6 (b) No public utility shall begin the construction of any
7 new plant, equipment, property, or facility which is not in
8 substitution of any existing plant, equipment, property, or
9 facility, or any extension or alteration thereof or in
10 addition thereto, unless and until it shall have obtained from
11 the Commission a certificate that public convenience and
12 necessity require such construction. Whenever after a hearing
13 the Commission determines that any new construction or the
14 transaction of any business by a public utility will promote
15 the public convenience and is necessary thereto, it shall have
16 the power to issue certificates of public convenience and
17 necessity. The Commission shall determine that proposed
18 construction will promote the public convenience and necessity
19 only if the utility demonstrates: (1) that the proposed
20 construction is necessary to provide adequate, reliable, and
21 efficient service to its customers and is the least-cost means
22 of satisfying the service needs of its customers or that the
23 proposed construction will promote the development of an
24 effectively competitive electricity market that operates
25 efficiently, is equitable to all customers, and is the least
26 cost means of satisfying those objectives; (2) that the

1 utility is capable of efficiently managing and supervising the
2 construction process and has taken sufficient action to ensure
3 adequate and efficient construction and supervision thereof;
4 and (3) that the utility is capable of financing the proposed
5 construction without significant adverse financial
6 consequences for the utility or its customers.

7 (b-5) As used in this subsection (b-5):

8 "Qualifying direct current applicant" means an entity that
9 seeks to provide direct current bulk transmission service for
10 the purpose of transporting electric energy in interstate
11 commerce.

12 "Qualifying direct current project" means a high voltage
13 direct current electric service line that crosses at least one
14 Illinois border, the Illinois portion of which is physically
15 located within the region of the Midcontinent Independent
16 System Operator, Inc., or its successor organization, and runs
17 through the counties of Pike, Scott, Greene, Macoupin,
18 Montgomery, Christian, Shelby, Cumberland, and Clark, is
19 capable of transmitting electricity at voltages of 345
20 kilovolts ~~345kv~~ or above, and may also include associated
21 interconnected alternating current interconnection facilities
22 in this State that are part of the proposed project and
23 reasonably necessary to connect the project with other
24 portions of the grid.

25 Notwithstanding any other provision of this Act, a
26 qualifying direct current applicant that does not own,

1 control, operate, or manage, within this State, any plant,
2 equipment, or property used or to be used for the transmission
3 of electricity at the time of its application or of the
4 Commission's order may file an application on or before
5 December 31, 2023 with the Commission pursuant to this Section
6 or Section 8-406.1 for, and the Commission may grant, a
7 certificate of public convenience and necessity to construct,
8 operate, and maintain a qualifying direct current project. The
9 qualifying direct current applicant may also include in the
10 application requests for authority under Section 8-503. The
11 Commission shall grant the application for a certificate of
12 public convenience and necessity and requests for authority
13 under Section 8-503 if it finds that the qualifying direct
14 current applicant and the proposed qualifying direct current
15 project satisfy the requirements of this subsection and
16 otherwise satisfy the criteria of this Section or Section
17 8-406.1 and the criteria of Section 8-503, as applicable to
18 the application and to the extent such criteria are not
19 superseded by the provisions of this subsection. The
20 Commission's order on the application for the certificate of
21 public convenience and necessity shall also include the
22 Commission's findings and determinations on the request or
23 requests for authority pursuant to Section 8-503. Prior to
24 filing its application under either this Section or Section
25 8-406.1, the qualifying direct current applicant shall conduct
26 3 public meetings in accordance with subsection (h) of this

1 Section. If the qualifying direct current applicant
2 demonstrates in its application that the proposed qualifying
3 direct current project is designed to deliver electricity to a
4 point or points on the electric transmission grid in either or
5 both the PJM Interconnection, LLC or the Midcontinent
6 Independent System Operator, Inc., or their respective
7 successor organizations, the proposed qualifying direct
8 current project shall be deemed to be, and the Commission
9 shall find it to be, for public use. If the qualifying direct
10 current applicant further demonstrates in its application that
11 the proposed transmission project has a capacity of 1,000
12 megawatts or larger and a voltage level of 345 kilovolts or
13 greater, the proposed transmission project shall be deemed to
14 satisfy, and the Commission shall find that it satisfies, the
15 criteria stated in item (1) of subsection (b) of this Section
16 or in paragraph (1) of subsection (f) of Section 8-406.1, as
17 applicable to the application, without the taking of
18 additional evidence on these criteria. Prior to the transfer
19 of functional control of any transmission assets to a regional
20 transmission organization, a qualifying direct current
21 applicant shall request Commission approval to join a regional
22 transmission organization in an application filed pursuant to
23 this subsection (b-5) or separately pursuant to Section 7-102
24 of this Act. The Commission may grant permission to a
25 qualifying direct current applicant to join a regional
26 transmission organization if it finds that the membership, and

1 associated transfer of functional control of transmission
2 assets, benefits Illinois customers in light of the attendant
3 costs and is otherwise in the public interest. Nothing in this
4 subsection (b-5) requires a qualifying direct current
5 applicant to join a regional transmission organization.
6 Nothing in this subsection (b-5) requires the owner or
7 operator of a high voltage direct current transmission line
8 that is not a qualifying direct current project to obtain a
9 certificate of public convenience and necessity to the extent
10 it is not otherwise required by this Section 8-406 or any other
11 provision of this Act.

12 (c) After September 11, 1987 (the effective date of Public
13 Act 85-377) ~~this amendatory Act of 1987~~, no construction shall
14 commence on any new nuclear power plant to be located within
15 this State, and no certificate of public convenience and
16 necessity or other authorization shall be issued therefor by
17 the Commission, until the Director of the Illinois
18 Environmental Protection Agency finds that the United States
19 Government, through its authorized agency, has identified and
20 approved a demonstrable technology or means for the disposal
21 of high level nuclear waste, or until such construction has
22 been specifically approved by a statute enacted by the General
23 Assembly.

24 As used in this Section, "high level nuclear waste" means
25 those aqueous wastes resulting from the operation of the first
26 cycle of the solvent extraction system or equivalent and the

1 concentrated wastes of the subsequent extraction cycles or
2 equivalent in a facility for reprocessing irradiated reactor
3 fuel and shall include spent fuel assemblies prior to fuel
4 reprocessing.

5 (d) In making its determination under subsection (b) of
6 this Section, the Commission shall attach primary weight to
7 the cost or cost savings to the customers of the utility. The
8 Commission may consider any or all factors which will or may
9 affect such cost or cost savings, including the public
10 utility's engineering judgment regarding the materials used
11 for construction.

12 (e) The Commission may issue a temporary certificate which
13 shall remain in force not to exceed one year in cases of
14 emergency, to assure maintenance of adequate service or to
15 serve particular customers, without notice or hearing, pending
16 the determination of an application for a certificate, and may
17 by regulation exempt from the requirements of this Section
18 temporary acts or operations for which the issuance of a
19 certificate will not be required in the public interest.

20 A public utility shall not be required to obtain but may
21 apply for and obtain a certificate of public convenience and
22 necessity pursuant to this Section with respect to any matter
23 as to which it has received the authorization or order of the
24 Commission under the Electric Supplier Act, and any such
25 authorization or order granted a public utility by the
26 Commission under that Act shall as between public utilities be

1 deemed to be, and shall have except as provided in that Act the
2 same force and effect as, a certificate of public convenience
3 and necessity issued pursuant to this Section.

4 No electric cooperative shall be made or shall become a
5 party to or shall be entitled to be heard or to otherwise
6 appear or participate in any proceeding initiated under this
7 Section for authorization of power plant construction and as
8 to matters as to which a remedy is available under the Electric
9 Supplier Act.

10 (f) Such certificates may be altered or modified by the
11 Commission, upon its own motion or upon application by the
12 person or corporation affected. Unless exercised within a
13 period of 2 years from the grant thereof, authority conferred
14 by a certificate of convenience and necessity issued by the
15 Commission shall be null and void.

16 No certificate of public convenience and necessity shall
17 be construed as granting a monopoly or an exclusive privilege,
18 immunity or franchise.

19 (g) A public utility that undertakes any of the actions
20 described in items (1) through (3) of this subsection (g) or
21 that has obtained approval pursuant to Section 8-406.1 of this
22 Act shall not be required to comply with the requirements of
23 this Section to the extent such requirements otherwise would
24 apply. For purposes of this Section and Section 8-406.1 of
25 this Act, "high voltage electric service line" means an
26 electric line having a design voltage of 100,000 or more. For

1 purposes of this subsection (g), a public utility may do any of
2 the following:

3 (1) replace or upgrade any existing high voltage
4 electric service line and related facilities,
5 notwithstanding its length;

6 (2) relocate any existing high voltage electric
7 service line and related facilities, notwithstanding its
8 length, to accommodate construction or expansion of a
9 roadway or other transportation infrastructure; or

10 (3) construct a high voltage electric service line and
11 related facilities that is constructed solely to serve a
12 single customer's premises or to provide a generator
13 interconnection to the public utility's transmission
14 system and that will pass under or over the premises owned
15 by the customer or generator to be served or under or over
16 premises for which the customer or generator has secured
17 the necessary right of way.

18 (h) A public utility seeking to construct a high-voltage
19 electric service line and related facilities (Project) must
20 show that the utility has held a minimum of 2 pre-filing public
21 meetings to receive public comment concerning the Project in
22 each county where the Project is to be located, no earlier than
23 6 months prior to filing an application for a certificate of
24 public convenience and necessity from the Commission. Notice
25 of the public meeting shall be published in a newspaper of
26 general circulation within the affected county once a week for

1 3 consecutive weeks, beginning no earlier than one month prior
2 to the first public meeting. If the Project traverses 2
3 contiguous counties and where in one county the transmission
4 line mileage and number of landowners over whose property the
5 proposed route traverses is one-fifth or less of the
6 transmission line mileage and number of such landowners of the
7 other county, then the utility may combine the 2 pre-filing
8 meetings in the county with the greater transmission line
9 mileage and affected landowners. All other requirements
10 regarding pre-filing meetings shall apply in both counties.
11 Notice of the public meeting, including a description of the
12 Project, must be provided in writing to the clerk of each
13 county where the Project is to be located. A representative of
14 the Commission shall be invited to each pre-filing public
15 meeting.

16 (i) For applications filed after August 18, 2015 (the
17 effective date of Public Act 99-399) ~~this amendatory Act of~~
18 ~~the 99th General Assembly~~, the Commission shall, by certified
19 mail, ~~registered mail~~ notify each owner of record of land, as
20 identified in the records of the relevant county tax assessor,
21 included in the right-of-way over which the utility seeks in
22 its application to construct a high-voltage electric line of
23 the time and place scheduled for the initial hearing on the
24 public utility's application. The utility shall reimburse the
25 Commission for the cost of the postage and supplies incurred
26 for mailing the notice.

1 (Source: P.A. 102-609, eff. 8-27-21; 102-662, eff. 9-15-21;
2 revised 10-21-21.)

3 (220 ILCS 5/8-406.1)

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

6 (a) A public utility may apply for a certificate of public
7 convenience and necessity pursuant to this Section for the
8 construction of any new high voltage electric service line and
9 related facilities (Project). To facilitate the expedited
10 review process of an application filed pursuant to this
11 Section, an application shall include all of the following:

12 (1) Information in support of the application that
13 shall include the following:

14 (A) A detailed description of the Project,
15 including location maps and plot plans to scale
16 showing all major components.

17 (B) The following engineering data:

18 (i) a detailed Project description including:

19 (I) name and destination of the Project;

20 (II) design voltage rating (kV);

21 (III) operating voltage rating (kV); and

22 (IV) normal peak operating current rating;

23 (ii) a conductor, structures, and substations
24 description including:

25 (I) conductor size and type;

- 1 (II) type of structures;
- 2 (III) height of typical structures;
- 3 (IV) an explanation why these structures
4 were selected;
- 5 (V) dimensional drawings of the typical
6 structures to be used in the Project; and
- 7 (VI) a list of the names of all new (and
8 existing if applicable) substations or
9 switching stations that will be associated
10 with the proposed new high voltage electric
11 service line;
- 12 (iii) the location of the site and
13 right-of-way including:
- 14 (I) miles of right-of-way;
- 15 (II) miles of circuit;
- 16 (III) width of the right-of-way; and
- 17 (IV) a brief description of the area
18 traversed by the proposed high voltage
19 electric service line, including a description
20 of the general land uses in the area and the
21 type of terrain crossed by the proposed line;
- 22 (iv) assumptions, bases, formulae, and methods
23 used in the development and preparation of the
24 diagrams and accompanying data, and a technical
25 description providing the following information:
- 26 (I) number of circuits, with

1 identification as to whether the circuit is
2 overhead or underground;

3 (II) the operating voltage and frequency;
4 and

5 (III) conductor size and type and number
6 of conductors per phase;

7 (v) if the proposed interconnection is an
8 overhead line, the following additional
9 information also must be provided:

10 (I) the wind and ice loading design
11 parameters;

12 (II) a full description and drawing of a
13 typical supporting structure, including
14 strength specifications;

15 (III) structure spacing with typical
16 ruling and maximum spans;

17 (IV) conductor (phase) spacing; and

18 (V) the designed line-to-ground and
19 conductor-side clearances;

20 (vi) if an underground or underwater
21 interconnection is proposed, the following
22 additional information also must be provided:

23 (I) burial depth;

24 (II) type of cable and a description of
25 any required supporting equipment, such as
26 insulation medium pressurizing or forced

1 cooling;
2 (III) cathodic protection scheme; and
3 (IV) type of dielectric fluid and
4 safeguards used to limit potential spills in
5 waterways;

6 (vii) technical diagrams that provide
7 clarification of any item under this item (1)
8 should be included; and

9 (viii) applicant shall provide and identify a
10 primary right-of-way and one or more alternate
11 rights-of-way for the Project as part of the
12 filing. To the extent applicable, for each
13 right-of-way, an applicant shall provide the
14 information described in this subsection (a). Upon
15 a showing of good cause in its filing, an
16 applicant may be excused from providing and
17 identifying alternate rights-of-way.

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

22 (3) Information showing that the utility has held a
23 minimum of 3 pre-filing public meetings to receive public
24 comment concerning the Project in each county where the
25 Project is to be located, no earlier than 6 months prior to
26 the filing of the application. Notice of the public

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

18 For applications filed after the effective date of this
19 amendatory Act of the 99th General Assembly, the Commission
20 shall, by certified mail, ~~registered mail~~ notify each owner of
21 record of the land, as identified in the records of the
22 relevant county tax assessor, included in the primary or
23 alternate rights-of-way identified in the utility's
24 application of the time and place scheduled for the initial
25 hearing upon the public utility's application. The utility
26 shall reimburse the Commission for the cost of the postage and

1 supplies incurred for mailing the notice.

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

5 (c) Nothing in this Section prohibits a utility from
6 requesting, or the Commission from approving, protection of
7 confidential or proprietary information under applicable law.
8 The public utility may seek confidential protection of any of
9 the information provided pursuant to this Section, subject to
10 Commission approval.

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

14 (e) The public utility shall establish a dedicated website
15 for the Project 3 weeks prior to the first public meeting and
16 maintain the website until construction of the Project is
17 complete. The website address shall be included in all public
18 notices.

19 (f) The Commission shall, after notice and hearing, grant
20 a certificate of public convenience and necessity filed in
21 accordance with the requirements of this Section if, based
22 upon the application filed with the Commission and the
23 evidentiary record, it finds the Project will promote the
24 public convenience and necessity and that all of the following
25 criteria are satisfied:

26 (1) That the Project is necessary to provide adequate,

1 reliable, and efficient service to the public utility's
2 customers and is the least-cost means of satisfying the
3 service needs of the public utility's customers or that
4 the Project will promote the development of an effectively
5 competitive electricity market that operates efficiently,
6 is equitable to all customers, and is the least cost means
7 of satisfying those objectives.

8 (2) That the public utility is capable of efficiently
9 managing and supervising the construction process and has
10 taken sufficient action to ensure adequate and efficient
11 construction and supervision of the construction.

12 (3) That the public utility is capable of financing
13 the proposed construction without significant adverse
14 financial consequences for the utility or its customers.

15 (g) The Commission shall issue its decision with findings
16 of fact and conclusions of law granting or denying the
17 application no later than 150 days after the application is
18 filed. The Commission may extend the 150-day deadline upon
19 notice by an additional 75 days if, on or before the 30th day
20 after the filing of the application, the Commission finds that
21 good cause exists to extend the 150-day period.

22 (h) In the event the Commission grants a public utility's
23 application for a certificate pursuant to this Section, the
24 public utility shall pay a one-time construction fee to each
25 county in which the Project is constructed within 30 days
26 after the completion of construction. The construction fee

1 shall be \$20,000 per mile of high voltage electric service
2 line constructed in that county, or a proportionate fraction
3 of that fee. The fee shall be in lieu of any permitting fees
4 that otherwise would be imposed by a county. Counties
5 receiving a payment under this subsection (h) may distribute
6 all or portions of the fee to local taxing districts in that
7 county.

8 (i) Notwithstanding any other provisions of this Act, a
9 decision granting a certificate under this Section shall
10 include an order pursuant to Section 8-503 of this Act
11 authorizing or directing the construction of the high voltage
12 electric service line and related facilities as approved by
13 the Commission, in the manner and within the time specified in
14 said order.

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