



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2393

Introduced 2/26/2021, by Sen. Patrick J. Joyce

SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 105/5.935 new

220 ILCS 5/8-406

220 ILCS 5/8-406.2 new

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

Creates the Pembroke Township Natural Gas Investment Pilot Program Act. Directs the Department of Commerce and Economic Opportunity to create a pilot program for the distribution of grants for the construction of new natural gas pipelines and infrastructure in Pembroke Township. Requires applicants for grants to demonstrate that the grants will result in the construction of a new natural gas pipeline to provide natural gas to the residents of the township. Provides that the Department shall report annually to the Governor and General Assembly beginning in 2022 regarding cost estimates for the Pilot Program, recommendations for improvement to the Pilot Program, and a recommendation as to whether the Pilot Program should be continued. Amends the State Finance Act to create the Pembroke Township Natural Gas Investment Pilot Program Fund as a special fund in the State treasury. Amends the Public Utilities Act. Provides that a gas public utility may apply for a certificate of public convenience and necessity to increase its gas service territory and extend its gas distribution system to serve a designated hardship area. Provides that the Illinois Commerce Commission shall, after notice and hearing, grant a certificate of public convenience and necessity if, based upon the application filed with the Commission and the evidentiary record, the Commission finds that specified criteria are satisfied. Makes other changes. Effective immediately.

LRB102 13147 SPS 18490 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 1. Short title. This Act may be cited as the
5 Pembroke Township Natural Gas Investment Pilot Program Act.

6 Section 5. Definitions. In this Act:

7 "Department" means the Department of Commerce and Economic
8 Opportunity.

9 "Qualifying gas pipeline project" means the construction
10 or installation of gas equipment used in connection with the
11 distribution and delivery of natural gas in Pembroke Township.

12 Section 10. Pembroke Township Natural Gas Investment Pilot
13 Program.

14 (a) The Department shall create the Pembroke Township
15 Natural Gas Investment Pilot Program for a duration of 5
16 years. The Program shall provide that the Department shall
17 distribute grants, subject to appropriation, from moneys in
18 the Pembroke Township Natural Gas Investment Fund for the
19 construction of new natural gas pipelines and infrastructure
20 in Pembroke Township.

21 (b) The Department shall adopt rules for the
22 administration of the Program. At a minimum, the rules shall

1 require that the applicant for the grants demonstrate that the
2 grants will result in the construction of a new natural gas
3 pipeline to provide natural gas to the residents of Pembroke
4 Township and that the applicant complies with all other
5 requirements of the rules.

6 (c) A grantee must maintain all records as required by
7 rule. The records shall be subject to audit by the Department,
8 by an auditor appointed by the Department, or by a State
9 officer authorized to conduct audits.

10 (d) Eligible applicants under this Program may include a
11 nonprofit or community action association that will help the
12 residents of Pembroke with the convergence of natural gas
13 services in the residents' homes. Notwithstanding any
14 provision of law to the contrary, an entity regulated under
15 the Public Utilities Act may serve as a grantee under this Act.

16 Section 15. Pembroke Township Natural Gas Investment Pilot
17 Program Fund. The Pembroke Township Natural Gas Investment
18 Pilot Program Fund is created as a special fund in the State
19 treasury. Subject to appropriation, all moneys in the Fund
20 shall be used by the Department to fund grants for qualified
21 utility infrastructure projects. The Department may accept
22 private and public funds, including federal funds, for deposit
23 into the Fund. Earnings attributable to moneys in the Fund
24 shall be deposited into the Fund.

1 Section 20. Data collection and reporting. The Department
2 shall collect data regarding the successes and challenges of
3 the Pembroke Township Natural Gas Investment Pilot Program and
4 shall submit an annual report to the Governor and the General
5 Assembly by March 1 of each year beginning in 2022 until the
6 Pilot Program terminates. The report shall: (i) make a
7 recommendation as to whether the Pilot Program should
8 continue; (ii) provide cost estimates, including the average
9 per person costs; and (iii) recommend ways in which the Pilot
10 Program can be improved to better address the needs for
11 natural gas distribution.

12 Section 90. The State Finance Act is amended by adding
13 Section 5.935 as follows:

14 (30 ILCS 105/5.935 new)

15 Sec. 5.935. The Pembroke Township Natural Gas Investment
16 Pilot Program Fund.

17 Section 95. The Public Utilities Act is amended by
18 changing Sections 8-406 and by adding Section 8-406.2 as
19 follows:

20 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

21 Sec. 8-406. Certificate of public convenience and
22 necessity.

1 (a) No public utility not owning any city or village
2 franchise nor engaged in performing any public service or in
3 furnishing any product or commodity within this State as of
4 July 1, 1921 and not possessing a certificate of public
5 convenience and necessity from the Illinois Commerce
6 Commission, the State Public Utilities Commission or the
7 Public Utilities Commission, at the time this amendatory Act
8 of 1985 goes into effect, shall transact any business in this
9 State until it shall have obtained a certificate from the
10 Commission that public convenience and necessity require the
11 transaction of such business. A certificate of public
12 convenience and necessity requiring the transaction of public
13 utility business in any area of this State shall include
14 authorization to the public utility receiving the certificate
15 of public convenience and necessity to construct such plant,
16 equipment, property, or facility as is provided for under the
17 terms and conditions of its tariff and as is necessary to
18 provide utility service and carry out the transaction of
19 public utility business by the public utility in the
20 designated area.

21 (b) No public utility shall begin the construction of any
22 new plant, equipment, property or facility which is not in
23 substitution of any existing plant, equipment, property or
24 facility or any extension or alteration thereof or in addition
25 thereto, unless and until it shall have obtained from the
26 Commission a certificate that public convenience and necessity

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

22 (c) After the effective date of this amendatory Act of
23 1987, no construction shall commence on any new nuclear power
24 plant to be located within this State, and no certificate of
25 public convenience and necessity or other authorization shall
26 be issued therefor by the Commission, until the Director of

1 the Illinois Environmental Protection Agency finds that the
2 United States Government, through its authorized agency, has
3 identified and approved a demonstrable technology or means for
4 the disposal of high level nuclear waste, or until such
5 construction has been specifically approved by a statute
6 enacted by the General Assembly.

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

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

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

1 temporary acts or operations for which the issuance of a
2 certificate will not be required in the public interest.

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

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

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

25 No certificate of public convenience and necessity shall
26 be construed as granting a monopoly or an exclusive privilege,

1 immunity or franchise.

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

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

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

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

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

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

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

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

10 (220 ILCS 5/8-406.2 new)

11 Sec. 8-406.2. Certificate of public convenience and
12 necessity; extension of utility service area and facilities to
13 serve designated hardship areas.

14 (a) This Section is intended to provide a mechanism by
15 which a gas public utility may extend its service territory
16 and gas distribution system to provide service to designated
17 low-income areas whose residents do not have access to natural
18 gas service and must purchase more costly alternatives to
19 satisfy their energy needs.

20 (b) In this Section:

21 "Designated hardship area" means a defined geographic area
22 described by the applicant gas utility that meets the
23 following requirements:

24 (1) the area is designated as a qualified census tract
25 by the U.S. Department of Housing and Urban Development as

1 published in the most current Federal Register; if the
2 U.S. Department of Housing and Urban Development ceases to
3 make this designation, then at least 25% of the households
4 in the area are at or below the poverty level; and

5 (2) the area is not currently served by a gas utility.

6 "Hardship area facilities" means all gas distribution
7 system facilities that are proposed to be constructed or
8 extended and used to serve the designated hardship area,
9 through and including retail gas meters. "Hardship area
10 facilities" includes the capacity to address reasonably
11 foreseeable growth in areas adjacent to or in the vicinity of
12 the designated hardship area.

13 (c) A gas public utility may apply for a certificate of
14 public convenience and necessity pursuant to this Section to
15 increase its gas service territory and extend its gas
16 distribution system to serve a designated hardship area. An
17 application under this Section shall include all of the
18 following:

19 (1) a description of the designated hardship area and
20 its relationship to the existing gas distribution system
21 of the applicant;

22 (2) a showing that the designated hardship area meets
23 the criteria for being a designated hardship area under
24 subsection (b) of this Section;

25 (3) a description of the hardship area facilities
26 proposed to serve the designated hardship area;

1 (4) a projection of the costs to construct and deploy
2 the hardship area facilities;

3 (5) a statement indicating that the gas distribution
4 utility has received written indications of interest from
5 at least 50% of the customers within the boundaries of the
6 designated hardship area demonstrating an interest shown
7 in obtaining gas service; and

8 (6) a showing that the estimated cost to construct and
9 deploy the hardship area facilities is equal to or less
10 than 250% of the amount allowed under the gas utilities'
11 then current tariffs to provide standard service to extend
12 main and services.

13 (d) The Commission shall, after notice and hearing, grant
14 a certificate of public convenience and necessity under this
15 Section if, based upon the application filed with the
16 Commission and the evidentiary record, the Commission finds
17 that all of the following criteria are satisfied:

18 (1) the area to be served is a designated hardship
19 area;

20 (2) the proposed hardship area facilities will provide
21 adequate, reliable, and efficient gas delivery service to
22 the customers within the designated hardship area and are
23 the least-cost means of providing such gas delivery
24 service to these customers;

25 (3) the public utility is capable of efficiently
26 managing and supervising the construction of the hardship

1 area facilities and has taken sufficient action to ensure
2 adequate and efficient construction and supervision of the
3 construction;

4 (4) the public utility is capable of financing the
5 construction of the hardship area facilities without
6 significant adverse financial consequences for the utility
7 or its customers; and

8 (5) the estimated cost to construct and deploy the
9 hardship area facilities is equal to or less than 250% of
10 the amount allowed under the gas utilities then current
11 tariffs to provide standard service to extend main and
12 services.

13 (e) The Commission shall issue its decision with findings
14 of fact and conclusions of law granting or denying the
15 application no later than 120 days after the application is
16 filed.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.