



Rep. JoAnn D. Osmond

Filed: 4/1/2008

09500HB2971ham001

LRB095 06410 MJR 48380 a

1 AMENDMENT TO HOUSE BILL 2971

2 AMENDMENT NO. _____. Amend House Bill 2971 by replacing
3 everything after the enacting clause with the following:

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

1 until it shall have obtained a certificate from the Commission
2 that public convenience and necessity require the transaction
3 of such business.

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

1 adequate and efficient construction and supervision thereof;
2 and (3) that the utility is capable of financing the proposed
3 construction without significant adverse financial
4 consequences for the utility or its customers.

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

16 ~~As used in this Section, "high level nuclear waste" means~~
17 ~~those aqueous wastes resulting from the operation of the first~~
18 ~~cycle of the solvent extraction system or equivalent and the~~
19 ~~concentrated wastes of the subsequent extraction cycles or~~
20 ~~equivalent in a facility for reprocessing irradiated reactor~~
21 ~~fuel and shall include spent fuel assemblies prior to fuel~~
22 ~~reprocessing.~~

23 (d) In making its determination, the Commission shall
24 attach primary weight to the cost or cost savings to the
25 customers of the utility. The Commission may consider any or
26 all factors which will or may affect such cost or cost savings.

1 (e) The Commission may issue a temporary certificate which
2 shall remain in force not to exceed one year in cases of
3 emergency, to assure maintenance of adequate service or to
4 serve particular customers, without notice or hearing, pending
5 the determination of an application for a certificate, and may
6 by regulation exempt from the requirements of this Section
7 temporary acts or operations for which the issuance of a
8 certificate will not be required in the public interest.

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

19 No electric cooperative shall be made or shall become a
20 party to or shall be entitled to be heard or to otherwise
21 appear or participate in any proceeding initiated under this
22 Section for authorization of power plant construction and as to
23 matters as to which a remedy is available under The Electric
24 Supplier Act.

25 (f) Such certificates may be altered or modified by the
26 Commission, upon its own motion or upon application by the

1 person or corporation affected. Unless exercised within a
2 period of 2 years from the grant thereof authority conferred by
3 a certificate of convenience and necessity issued by the
4 Commission shall be null and void.

5 No certificate of public convenience and necessity shall be
6 construed as granting a monopoly or an exclusive privilege,
7 immunity or franchise.

8 (Source: P.A. 95-700, eff. 11-9-07.)

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