



Filed: 2/11/2010

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LRB096 14943 MJR 36391 a

1 AMENDMENT TO HOUSE BILL 4649

2 AMENDMENT NO. _____. Amend House Bill 4649 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Sections 8-406, 8-509, and 8-510 and by adding Section 8-406.1
6 as follows:

7 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

8 Sec. 8-406. Certificate of public convenience and
9 necessity.

10 (a) No public utility not owning any city or village
11 franchise nor engaged in performing any public service or in
12 furnishing any product or commodity within this State as of
13 July 1, 1921 and not possessing a certificate of public
14 convenience and necessity from the Illinois Commerce
15 Commission, the State Public Utilities Commission or the Public
16 Utilities Commission, at the time this amendatory Act of 1985

1 goes into effect, shall transact any business in this State
2 until it shall have obtained a certificate from the Commission
3 that public convenience and necessity require the transaction
4 of such business.

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

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

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

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

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

1 all factors which will or may affect such cost or cost savings,
2 including the public utility's engineering judgment regarding
3 the materials used for construction.

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

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

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

1 Supplier Act.

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

8 No certificate of public convenience and necessity shall be
9 construed as granting a monopoly or an exclusive privilege,
10 immunity or franchise.

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

21 (1) replace or upgrade any existing high voltage
22 electric service line and related facilities,
23 notwithstanding its length;

24 (2) relocate any existing high voltage electric
25 service line and related facilities, notwithstanding its
26 length, to accommodate construction or expansion of a

1 roadway or other transportation infrastructure; or

2 (3) construct a high voltage electric service line and
3 related facilities that is constructed solely to serve a
4 single customer's premises or to provide a generator
5 interconnection to the public utility's transmission
6 system and that will pass under or over the premises owned
7 by the customer or generator to be served or under or over
8 premises for which the customer or generator has secured
9 the necessary right of way.

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

11 (220 ILCS 5/8-406.1 new)

12 Sec. 8-406.1. Certificate of public convenience and
13 necessity; expedited procedure.

14 (a) A public utility may apply for a certificate of public
15 convenience and necessity pursuant to this Section for the
16 construction of any new high voltage electric service line and
17 related facilities (Project). To facilitate the expedited
18 review process of an application filed pursuant to this
19 Section, an application shall include all of the following:

20 (1) Information in support of the application that
21 shall include the following:

22 (A) A detailed description of the Project,
23 including location maps and plot plans to scale showing
24 all major components.

25 (B) The following engineering data:

1 (i) a detailed Project description including:

2 (I) name and destination of the Project;

3 (II) design voltage rating (kV);

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

5 (IV) normal peak operating current rating;

6 (ii) a conductor, structures, and substations
7 description including:

8 (I) conductor size and type;

9 (II) type of structures;

10 (III) height of typical structures;

11 (IV) an explanation why these structures
12 were selected;

13 (V) dimensional drawings of the typical
14 structures to be used in the Project; and

15 (VI) a list of the names of all new (and
16 existing if applicable) substations or
17 switching stations that will be associated
18 with the proposed new high voltage electric
19 service line;

20 (iii) the location of the site and
21 right-of-way including:

22 (I) miles of right-of-way;

23 (II) miles of circuit;

24 (III) width of the right-of-way; and

25 (IV) a brief description of the area
26 traversed by the proposed high voltage

1 electric service line, including a description
2 of the general land uses in the area and the
3 type of terrain crossed by the proposed line;
4 (iv) assumptions, bases, formulae, and methods
5 used in the development and preparation of the
6 diagrams and accompanying data, and a technical
7 description providing the following information:

8 (I) number of circuits, with
9 identification as to whether the circuit is
10 overhead or underground;

11 (II) the operating voltage and frequency;

12 and

13 (III) conductor size and type and number
14 of conductors per phase;

15 (v) if the proposed interconnection is an
16 overhead line, the following additional
17 information also must be provided:

18 (I) the wind and ice loading design
19 parameters;

20 (II) a full description and drawing of a
21 typical supporting structure, including
22 strength specifications;

23 (III) structure spacing with typical
24 ruling and maximum spans;

25 (IV) conductor (phase) spacing; and

26 (V) the designed line-to-ground and

1 conductor-side clearances;

2 (vi) if an underground or underwater
3 interconnection is proposed, the following
4 additional information also must be provided:

5 (I) burial depth;

6 (II) type of cable and a description of any
7 required supporting equipment, such as
8 insulation medium pressurizing or forced
9 cooling;

10 (III) cathodic protection scheme; and

11 (IV) type of dielectric fluid and
12 safeguards used to limit potential spills in
13 waterways;

14 (vii) technical diagrams that provide
15 clarification of any item under this item (1)
16 should be included; and

17 (viii) applicant shall provide and identify a
18 primary right-of-way and one or more alternate
19 right-of-ways for the Project as part of the
20 filing. To the extent applicable, for each
21 right-of-way applicant shall provide the
22 information described in this subsection (a). Upon
23 a showing of good cause in its filing, an applicant
24 may be excused from providing and identifying
25 alternate right-of-ways.

26 (C) The public utility may seek confidential

1 protection of any of the information provided pursuant
2 to this Section, subject to Commission approval.

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

6 (3) Information showing that the utility has held a
7 minimum of 3 pre-filing public meetings to receive public
8 comment concerning the Project in each county where the
9 Project is to be located, no earlier than 6 months prior to
10 the filing of the application. Notice of the public meeting
11 shall be published in a newspaper of general circulation
12 within the affected county once a week for 3 consecutive
13 weeks, beginning no earlier than one month prior to the
14 first public meeting. Notice of the public meeting,
15 including a description of the Project, must be provided in
16 writing to the clerk of each county where the Project is to
17 be located. A representative of the Commission shall be
18 invited to each pre-filing public meeting.

19 (4) The public utility shall publish notice of its
20 application in the official State newspaper within 10 days
21 following the date of the application's filing.

22 (5) The public utility shall establish a dedicated
23 website for the Project 3 weeks prior to the first public
24 meeting and maintain the website until construction of the
25 Project is complete. The website address shall be included
26 in all public notices.

1 (b) The Commission shall, after notice and hearing, grant a
2 certificate of public convenience and necessity filed in
3 accordance with the requirements of this Section if, based upon
4 the application filed with the Commission and the evidentiary
5 record, it finds the Project will promote the public
6 convenience and necessity and that all of the following
7 criteria are satisfied:

8 (1) That the Project is necessary to provide adequate,
9 reliable, and efficient service to the public utility's
10 customers and is the least-cost means of satisfying the
11 service needs of the public utility's customers or that the
12 Project will promote the development of an effectively
13 competitive electricity market that operates efficiently,
14 is equitable to all customers, and is the least cost means
15 of satisfying those objectives.

16 (2) That the public utility is capable of efficiently
17 managing and supervising the construction process and has
18 taken sufficient action to ensure adequate and efficient
19 construction and supervision of the construction.

20 (3) That the public utility is capable of financing the
21 proposed construction without significant adverse
22 financial consequences for the utility or its customers.

23 (c) The Commission shall issue its decision with findings
24 of fact and conclusions of law granting or denying the
25 application no later than 120 days after the application is
26 filed. The Commission may extend the 120-day deadline upon

1 notice by an additional 60 days if, on or before the 30th day
2 after the filing of the application, the Commission finds that
3 good cause exists to extend the 120-day period.

4 (d) In the event the Commission grants a public utility's
5 application for a certificate pursuant to this Section, the
6 public utility shall pay a one-time construction fee to each
7 county in which the Project is constructed within 30 days after
8 the completion of construction. The construction fee shall be
9 \$20,000 per mile of high voltage electric service line
10 constructed in that county, or a proportionate fraction of that
11 fee. The fee shall be in lieu of any permitting fees that
12 otherwise would be imposed by a county. Counties receiving a
13 payment under this subsection (d) may distribute all or
14 portions of the fee to local taxing districts in that county.

15 (e) Notwithstanding any other provisions of this Act, a
16 decision granting a certificate under this Section shall
17 include an order pursuant to Section 8-503 of this Act
18 authorizing or directing the construction of the high voltage
19 electric service line and related facilities as approved by the
20 Commission, in the manner and within the time specified in said
21 order.

22 (220 ILCS 5/8-509) (from Ch. 111 2/3, par. 8-509)

23 Sec. 8-509. When necessary for the construction of any
24 alterations, additions, extensions or improvements ordered or
25 authorized under Section 8-406.1, 8-503, or 12-218 of this Act,

1 any public utility may enter upon, take or damage private
2 property in the manner provided for by the law of eminent
3 domain. If a public utility seeks relief under this Section in
4 the same proceeding in which it seeks a certificate of public
5 convenience and necessity under Section 8-406.1 of this Act,
6 then the Commission shall issue its order under this Section
7 within 45 days after the utility files its petition under this
8 Section.

9 This Section applies to the exercise of eminent domain
10 powers by telephone companies or telecommunications carriers
11 only when the facilities to be constructed are intended to be
12 used in whole or in part for providing one or more intrastate
13 telecommunications services classified as "noncompetitive"
14 under Section 13-502 in a tariff filed by the condemnor. The
15 exercise of eminent domain powers by telephone companies or
16 telecommunications carriers in all other cases shall be
17 governed solely by "An Act relating to the powers, duties and
18 property of telephone companies", approved May 16, 1903, as now
19 or hereafter amended.

20 (Source: P.A. 86-221.)

21 (220 ILCS 5/8-510) (from Ch. 111 2/3, par. 8-510)

22 Sec. 8-510. Land surveys and land use studies. For the
23 purpose of making land surveys and land use studies, any public
24 utility that has been granted a certificate of public
25 convenience and necessity by, or received an order under

1 Section 8-503 or 8-406.1 of this Act from, the Commission may,
2 30 days after providing written notice to the owner thereof by
3 registered mail, enter upon the property of any owner who has
4 refused permission for entrance upon that property, but subject
5 to responsibility for all damages which may be inflicted
6 thereby.

7 (Source: P.A. 90-561, eff. 12-16-97.)

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