



Sen. James F. Clayborne, Jr.

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1 AMENDMENT TO SENATE BILL 3343

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3343, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Public Utilities Act is amended by changing  
6 Section 15-401 as follows:

7 (220 ILCS 5/15-401)

8 Sec. 15-401. Licensing.

9 (a) No person shall operate as a common carrier by pipeline  
10 unless the person possesses a certificate in good standing  
11 authorizing it to operate as a common carrier by pipeline. No  
12 person shall begin or continue construction of a pipeline or  
13 other facility, other than the repair or replacement of an  
14 existing pipeline or facility, for use in operations as a  
15 common carrier by pipeline unless the person possesses a  
16 certificate in good standing.

1 (b) Requirements for issuance. The Commission, after a  
2 hearing, shall grant an application for a certificate  
3 authorizing operations as a common carrier by pipeline, in  
4 whole or in part, to the extent that it finds that the  
5 application was properly filed; a public need for the service  
6 exists; the applicant is fit, willing, and able to provide the  
7 service in compliance with this Act, Commission regulations,  
8 and orders; and the public convenience and necessity requires  
9 issuance of the certificate. Evidence encompassing any of the  
10 factors set forth in this subsection (b) that is submitted by  
11 the applicant, any other party, or the Commission's staff shall  
12 also be considered by the Commission in determining whether a  
13 public need for the service exists under either current or  
14 expected conditions. The changes in this subsection (b) are  
15 intended to be confirmatory of existing law.

16 In its determination of public convenience and necessity  
17 for a proposed pipeline or facility designed or intended to  
18 transport crude oil and any alternate locations for such  
19 proposed pipeline or facility, the Commission shall consider,  
20 but not be limited to, the following:

21 (1) any evidence presented by the Illinois  
22 Environmental Protection Agency regarding the  
23 environmental impact of the proposed pipeline or other  
24 facility;

25 (2) any evidence presented by the Illinois Department  
26 of Transportation regarding the impact of the proposed

1 pipeline or facility on traffic safety, road construction,  
2 or other transportation issues;

3 (3) any evidence presented by the Department of Natural  
4 Resources regarding the impact of the proposed pipeline or  
5 facility on any conservation areas, forest preserves,  
6 wildlife preserves, wetlands, or any other natural  
7 resource;

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

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

18 (6) any evidence presented by the Department of  
19 Commerce and Economic Opportunity regarding the current  
20 and future local, State-wide, or regional economic effect,  
21 direct or indirect, of the proposed pipeline or facility  
22 including, but not limited to, property values, employment  
23 rates, and residential and business development; ~~and~~

24 (7) any evidence addressing the factors in this  
25 subsection (b) or other relevant factors that is presented  
26 by any other State agency, the applicant, a party, or other

1 entity that participates in the proceeding, including  
2 evidence presented by the Commission's staff;

3 (8) any evidence presented by a State agency or unit of  
4 State or local government as to the current and future  
5 national, State-wide, or regional economic effects of the  
6 proposed pipeline, direct or indirect, as they affect  
7 residents or businesses in Illinois, including, but not  
8 limited to, such impacts as the ability of manufacturers in  
9 Illinois to meet public demand for related services and  
10 products and to compete in the national and regional  
11 economies, improved access of suppliers to regional and  
12 national shipping grids, the ability of the State to access  
13 funds made available for energy infrastructure by the  
14 federal government, mitigation of foreseeable spikes in  
15 price affecting Illinois residents or businesses due to  
16 sudden changes in supply or transportation capacity, and  
17 the likelihood that the proposed construction will  
18 substantially encourage related investment in the State's  
19 energy infrastructure and the creation of energy related  
20 jobs; and

21 (9) any evidence presented by any State or federal  
22 governmental entity as to how the proposed pipeline or  
23 facility will affect the security, stability, and  
24 reliability of energy in the State or in the region.

25 In its written order, the Commission shall address all of  
26 the evidence presented, and if the order is contrary to any of

1 the evidence, the Commission shall state the reasons for its  
2 determination with regard to that evidence. ~~The provisions of~~  
3 ~~this amendatory Act of 1996 apply to any certificate granted or~~  
4 ~~denied after the effective date of this amendatory Act of 1996.~~

5 (b-5) An application filed pursuant to this Section may  
6 request either that the Commission review and approve a  
7 specific route for a pipeline, or that the Commission review  
8 and approve a project route width that identifies the areas in  
9 which the pipeline would be located, with such width ranging  
10 from the minimum width required for a pipeline right-of-way up  
11 to 500 feet in width. The purpose for allowing the option of  
12 review and approval of a project route width is to provide  
13 increased flexibility during the construction process to  
14 accommodate specific landowner requests, avoid environmentally  
15 sensitive areas, or address special environmental permitting  
16 requirements.

17 (b-10) A common carrier by pipeline that may request any  
18 other approvals as may be needed from the Commission for  
19 completion of the pipeline under Article VIII or any other  
20 Article or Section of this Act at the same time, and as part of  
21 the same application, as its request for a certificate of good  
22 standing under this Section. The Commission's rules shall  
23 ensure that notice of such a consolidated application is  
24 provided within 30 days after filing to the landowners along a  
25 proposed project route, or to the potentially affected  
26 landowners within a proposed project route width, using the

1 notification procedures set forth in the Commission's rules. If  
2 a consolidated application is submitted, the requests shall be  
3 heard on a consolidated basis and a decision on all issues  
4 shall be entered within the time frames stated in subsection  
5 (b-15) of this Section. In such a consolidated proceeding, the  
6 Commission may consider evidence relating to the same factors  
7 identified in subsection (b) of this Section in granting a  
8 certificate of need under Section 8-503 of this Act. If the  
9 Commission grants approval of a project route width as opposed  
10 to a specific project route, the common carrier by pipeline  
11 must, as it finalizes the actual pipeline alignment within the  
12 project route width, file its final list of affected landowners  
13 with the Commission at least 14 days in advance of beginning  
14 construction on any tract within the project route width and  
15 also provide the Commission with at least 14 days notice before  
16 filing a complaint for eminent domain in the circuit court with  
17 regard to any tract within the project route width.

18 (b-15) The Commission shall make its determination on any  
19 application filed pursuant to this Section and issue its final  
20 order within one year after the date that the application is  
21 filed unless an extension is granted as provided in this  
22 subsection (b-15). The Commission may extend the one-year time  
23 period for issuing a final order on an application filed  
24 pursuant to this Section up to an additional 6 months if it  
25 finds, following the filing of initial testimony by the parties  
26 to the proceeding, that due to the number of affected

1 landowners and other parties in the proceeding and the  
2 complexity of the contested issues before it, additional time  
3 is needed to ensure a complete review of the evidence. If an  
4 extension is granted, the schedule for the proceeding shall not  
5 be further extended beyond this 6-month period, and the  
6 Commission shall issue its final order within the 6-month  
7 extension period. The Commission shall also have the power to  
8 establish an expedited schedule for making its determination on  
9 an application filed pursuant to this Section in less than one  
10 year if it finds that the public interest requires the setting  
11 of such an expedited schedule.

12 (b-15) Within 6 months after the Commission's entry of an  
13 order approving either a specific route or a project route  
14 width under this Section, the common carrier by pipeline that  
15 receives such order may file supplemental applications for  
16 minor route deviations outside the approved project route  
17 width, allowing for additions or changes to the approved route  
18 to address environmental concerns encountered during  
19 construction or to accommodate landowner requests. Notice of a  
20 supplemental application shall be provided to any State agency  
21 that appeared in the original proceeding or immediately  
22 affected landowner at the time such supplemental application is  
23 filed. The route deviations shall be approved by the Commission  
24 within 45 days, unless a written objection is filed to the  
25 supplemental application within 20 days after the date such  
26 supplemental application is filed. Hearings on any such

1 supplemental application shall be limited to the  
2 reasonableness of the specific variance proposed, and the  
3 issues of public need or public convenience or necessity for  
4 the project or fitness of the applicant shall not be reopened  
5 in the supplemental proceeding.

6 (b-20) The rules of the Commission may include additional  
7 options for expediting the issuance of permits and certificates  
8 under this Section. Such rules may provide that, in the event  
9 that an applicant elects to use an option provided for in such  
10 rules; (1) the applicant must request the use of the expedited  
11 process at the time of filing its application for a license or  
12 permit with the Commission; (2) the Commission may engage  
13 experts and procure additional administrative resources that  
14 are reasonably necessary for implementing the expedited  
15 process; and (3) the applicant must bear any additional costs  
16 incurred by the Commission as a result of the applicant's use  
17 of such expedited process.

18 (c) Duties and obligations of common carriers by pipeline.  
19 Each common carrier by pipeline shall provide adequate service  
20 to the public at reasonable rates and without discrimination.  
21 (Source: P.A. 94-793, eff. 5-19-06.)

22 Section 99. Effective date. This Act takes effect July 1,  
23 2010."