



Sen. Sue Rezin

Filed: 2/28/2023

10300SB0076sam001

LRB103 04604 AMQ 57234 a

1 AMENDMENT TO SENATE BILL 76

2 AMENDMENT NO. _____. Amend Senate Bill 76 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by
5 changing 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
15 Public Utilities Commission, at the time Public Act 84-617
16 goes into effect (January 1, 1986), shall transact any

1 business in this State until it shall have obtained a
2 certificate from the Commission that public convenience and
3 necessity require the transaction of such business. A
4 certificate of public convenience and necessity requiring the
5 transaction of public utility business in any area of this
6 State shall include authorization to the public utility
7 receiving the certificate of public convenience and necessity
8 to construct such plant, equipment, property, or facility as
9 is provided for under the terms and conditions of its tariff
10 and as is necessary to provide utility service and carry out
11 the transaction of public utility business by the public
12 utility in the designated area.

13 (b) No public utility shall begin the construction of any
14 new plant, equipment, property, or facility which is not in
15 substitution of any existing plant, equipment, property, or
16 facility, or any extension or alteration thereof or in
17 addition thereto, unless and until it shall have obtained from
18 the Commission a certificate that public convenience and
19 necessity require such construction. Whenever after a hearing
20 the Commission determines that any new construction or the
21 transaction of any business by a public utility will promote
22 the public convenience and is necessary thereto, it shall have
23 the power to issue certificates of public convenience and
24 necessity. The Commission shall determine that proposed
25 construction will promote the public convenience and necessity
26 only if the utility demonstrates: (1) that the proposed

1 construction is necessary to provide adequate, reliable, and
2 efficient service to its customers and is the least-cost means
3 of satisfying the service needs of its customers or that the
4 proposed construction will promote the development of an
5 effectively competitive electricity market that operates
6 efficiently, is equitable to all customers, and is the least
7 cost means of satisfying those objectives; (2) that the
8 utility is capable of efficiently managing and supervising the
9 construction process and has taken sufficient action to ensure
10 adequate and efficient construction and supervision thereof;
11 and (3) that the utility is capable of financing the proposed
12 construction without significant adverse financial
13 consequences for the utility or its customers.

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

15 "Qualifying direct current applicant" means an entity that
16 seeks to provide direct current bulk transmission service for
17 the purpose of transporting electric energy in interstate
18 commerce.

19 "Qualifying direct current project" means a high voltage
20 direct current electric service line that crosses at least one
21 Illinois border, the Illinois portion of which is physically
22 located within the region of the Midcontinent Independent
23 System Operator, Inc., or its successor organization, and runs
24 through the counties of Pike, Scott, Greene, Macoupin,
25 Montgomery, Christian, Shelby, Cumberland, and Clark, is
26 capable of transmitting electricity at voltages of 345

1 kilovolts or above, and may also include associated
2 interconnected alternating current interconnection facilities
3 in this State that are part of the proposed project and
4 reasonably necessary to connect the project with other
5 portions of the grid.

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

1 Commission's order on the application for the certificate of
2 public convenience and necessity shall also include the
3 Commission's findings and determinations on the request or
4 requests for authority pursuant to Section 8-503. Prior to
5 filing its application under either this Section or Section
6 8-406.1, the qualifying direct current applicant shall conduct
7 3 public meetings in accordance with subsection (h) of this
8 Section. If the qualifying direct current applicant
9 demonstrates in its application that the proposed qualifying
10 direct current project is designed to deliver electricity to a
11 point or points on the electric transmission grid in either or
12 both the PJM Interconnection, LLC or the Midcontinent
13 Independent System Operator, Inc., or their respective
14 successor organizations, the proposed qualifying direct
15 current project shall be deemed to be, and the Commission
16 shall find it to be, for public use. If the qualifying direct
17 current applicant further demonstrates in its application that
18 the proposed transmission project has a capacity of 1,000
19 megawatts or larger and a voltage level of 345 kilovolts or
20 greater, the proposed transmission project shall be deemed to
21 satisfy, and the Commission shall find that it satisfies, the
22 criteria stated in item (1) of subsection (b) of this Section
23 or in paragraph (1) of subsection (f) of Section 8-406.1, as
24 applicable to the application, without the taking of
25 additional evidence on these criteria. Prior to the transfer
26 of functional control of any transmission assets to a regional

1 transmission organization, a qualifying direct current
2 applicant shall request Commission approval to join a regional
3 transmission organization in an application filed pursuant to
4 this subsection (b-5) or separately pursuant to Section 7-102
5 of this Act. The Commission may grant permission to a
6 qualifying direct current applicant to join a regional
7 transmission organization if it finds that the membership, and
8 associated transfer of functional control of transmission
9 assets, benefits Illinois customers in light of the attendant
10 costs and is otherwise in the public interest. Nothing in this
11 subsection (b-5) requires a qualifying direct current
12 applicant to join a regional transmission organization.
13 Nothing in this subsection (b-5) requires the owner or
14 operator of a high voltage direct current transmission line
15 that is not a qualifying direct current project to obtain a
16 certificate of public convenience and necessity to the extent
17 it is not otherwise required by this Section 8-406 or any other
18 provision of this Act.

19 (c) (Blank). ~~After September 11, 1987 (the effective date~~
20 ~~of Public Act 85-377), no construction shall commence on any~~
21 ~~new nuclear power plant to be located within this State, and no~~
22 ~~certificate of public convenience and necessity or other~~
23 ~~authorization shall be issued therefor by the Commission,~~
24 ~~until the Director of the Illinois Environmental Protection~~
25 ~~Agency finds that the United States Government, through its~~
26 ~~authorized agency, has identified and approved a demonstrable~~

1 ~~technology or means for the disposal of high level nuclear~~
2 ~~waste, or until such construction has been specifically~~
3 ~~approved by a statute enacted by the General Assembly.~~

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

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

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

26 A public utility shall not be required to obtain but may

1 apply for and obtain a certificate of public convenience and
2 necessity pursuant to this Section with respect to any matter
3 as to which it has received the authorization or order of the
4 Commission under the Electric Supplier Act, and any such
5 authorization or order granted a public utility by the
6 Commission under that Act shall as between public utilities be
7 deemed to be, and shall have except as provided in that Act the
8 same force and effect as, a certificate of public convenience
9 and necessity issued pursuant to this Section.

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

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

22 No certificate of public convenience and necessity shall
23 be construed as granting a monopoly or an exclusive privilege,
24 immunity or franchise.

25 (g) A public utility that undertakes any of the actions
26 described in items (1) through (3) of this subsection (g) or

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

9 (1) replace or upgrade any existing high voltage
10 electric service line and related facilities,
11 notwithstanding its length;

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

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

24 (h) A public utility seeking to construct a high-voltage
25 electric service line and related facilities (Project) must
26 show that the utility has held a minimum of 2 pre-filing public

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

22 (i) For applications filed after August 18, 2015 (the
23 effective date of Public Act 99-399), the Commission shall, by
24 certified mail, notify each owner of record of land, as
25 identified in the records of the relevant county tax assessor,
26 included in the right-of-way over which the utility seeks in

1 its application to construct a high-voltage electric line of
2 the time and place scheduled for the initial hearing on the
3 public utility's application. The utility shall reimburse the
4 Commission for the cost of the postage and supplies incurred
5 for mailing the notice.

6 (Source: P.A. 102-609, eff. 8-27-21; 102-662, eff. 9-15-21;
7 102-813, eff. 5-13-22; 102-931, eff. 5-27-22.)

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